









2.75

(H. 7. 00)

~~2.75~~

65 6

*W. A. Thompson*

---

THE LABOUR LAWS.





THE  
LABOUR LAWS.

BY  
JAMES EDWARD DAVIS,  
OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW;  
LATE POLICE MAGISTRATE FOR SHEFFIELD.

LONDON:  
BUTTERWORTHS, 7, FLEET STREET,  
Law Publishers to the Queen's most excellent Majesty.  
T. & T. CLARK AND BELL & BRADFUTE, EDINBURGH.  
SMITH & SON, GLASGOW. HODGES, FOSTER & CO., GRAFTON STREET, DUBLIN.  
MELBOURNE: GEORGE ROBERTSON.

1875.

LONDON :  
PRINTED BY C. ROWORTH AND SONS,  
NEWTON STREET, W.C.

Seligman 1875E/D294

TO THE  
RIGHT HONBLE. THE EARL OF LICHFIELD.

---

DEAR LORD LICHFIELD,

There is no one to whom a critical examination, divested of all party considerations, of the changes effected in the Labour Laws of this country could be more appropriately dedicated than to your Lordship.

I therefore hope you will permit me to connect your name with these pages, and thus give me an opportunity of saying what a lively recollection I have of hours of earnest conversation at Shugborough and elsewhere on various public questions, and how sincerely

I am

Your Lordship's faithful Servant,

JAMES EDWARD DAVIS.

THE TEMPLE,  
1st October, 1875.





## PREFACE.

---

To any one who has carefully observed, step by step, the progress of the great change effected in the Labour Laws of this country, no explanation is necessary for my present appearance as Editor of the Statutes of last Session.

Others, who have not watched so closely, I will merely refer to the Introductory Chapters.

Having taken up the position of an expositor of the Acts, my object has been to combine a popular comment with a strictly practical treatise.

To the Magistrates—the great majority of whom will be called on for the first time to exercise the duties of Judges trying civil causes and assessing damages on strictly legal principles—some guide is essential; while lawyers practising in the Courts of Summary Jurisdiction, however experienced, will, in dealing with the New Law, find many questions requiring careful consideration. I hope this edition of the Statutes will meet their wants.

I offer no apology for giving in the earlier chapters some account of the changes previously effected in the law of Employer and Employed.

The legislation of 1867 (to which it seems to me but scant justice has been done in Parliament),

although designed to attain much of what we may now hope has been effectually secured, failed from the want of a due appreciation, on the part of its administrators, of the spirit in which it was framed.

The successful working of the Labour Laws of 1875 must depend, to a great extent, on a perfect comprehension by Courts of Summary Jurisdiction of the views ultimately adopted by the Legislature on several subjects on which conflicting opinions were entertained.

In this volume I have included the existing law, comprised in a great variety of Acts of Parliament, on matters closely affecting Workmen and their Employers. Such Statutes as the "Truck Act" and other allied provisions, and the Laws of 1872 on Mines and Mining, are of course essential to be borne in mind in relation to contracts of service in the most important of our manufactures and productive industry.

One illustration will suffice to show how this past legislation is interwoven with the Labour Laws of the present year.

The Employers and Workmen Act, 1875, contains a clause respecting the deduction, from wages, of forfeitures for absence or for leaving work.

Without attempting to state the effect of this new provision, I will give its history :—

One of the numerous questions arising on that very perplexing Statute, the Truck Act of 1831, came before the Court of Queen's Bench as to the

legal right of a Nottingham manufacturer to make a variety of agreed deductions. The Court, in conformity with an earlier case, decided in favour of that right. On appeal to the higher Court the Judges were equally divided in opinion (*a*).

The Legislature last year stepped in with an Act intended to settle the question, so far as regards the hosiery trade, in which the question originated, by prohibiting the deductions. Owing to the usual absence of clearly expressed views, a question as to the effect of this offspring of the Parent Truck Act on stipulated deductions for absence, came before the Court of Queen's Bench, and in June last it was decided by the Court that if the Legislature intended by the Act of 1874 to put a stop to them, it has not done so.

Thence the hasty introduction of a sort of compromising clause in the Employers and Workmen Act, 1875.

Whether this grandchild of the Truck Act will escape the attacks made on its progenitors is, of course, doubtful. One thing is clear, that it has no fair chance unless the Magistrates (the first interpreters of this branch of the law) are cognisant

(*a*) It is a notion equally popular and erroneous that the decisions of the Courts of Law involve mere technicalities. Not only for the display of careful reasoning by a mind of the highest powers, but for the information contained in it, I recommend for study the judgment of Baron Bramwell in *Archer v. James*. The general scope of the Truck Laws, with their advantages and disadvantages, are treated in a way that statesmen might read with advantage.

of its intended sphere of operation, and to know this they must be familiar with its history.

It follows from what I have said that the Statutes are accompanied by a summary of the decisions of the Courts of Law in relation to them.

If this work is destined to a favourable reception I shall be inclined to attribute the success to the attempt to treat the subject in a comprehensive spirit.

J. E. D.



# CONTENTS.

---

## CHAPTER I.

	PAGE
SUMMARY PROVISIONS RESPECTING BREACHES OF LABOUR CON- TRACTS PRIOR TO LORD ELCHO'S MASTER AND SERVANT ACT, 1867 .. .. .	1

---

## CHAPTER II.

LORD ELCHO'S MASTER AND SERVANT ACT, 1867 .. .. .	15
---	----

---

## CHAPTER III.

THE COMBINATION LAWS AND THE CRIMINAL LAW AMENDMENT ACT, 1871 .. .. .	28
--	----

---

## CHAPTER IV.

THE LAW OF CONSPIRACY IN RELATION TO EMPLOYER AND EM- PLOYED .. .. .	44
---	----

## CHAPTER V.

	PAGE
REPORT OF THE ROYAL COMMISSION ON LABOUR LAWS ..	49

## CHAPTER VI.

THE LEGISLATION OF 1875 .. .. .	80
---------------------------------	----

## CHAPTER VII.

PROCEDURE UNDER THE EMPLOYERS AND WORKMEN ACT, 1875 ..	105
Sect. 1. The Tribunal for hearing and determining "Dis- putes" .. .. .	105
2. The Jurisdiction as to Persons and Things..	110
3. Process of the Courts of Summary Jurisdiction pre- liminary to the Hearing .. .. .	122
4. Proceedings on the Hearing .. .. .	127
5. Orders of the Court of Summary Jurisdiction ..	131
6. The Award of Damages .. .. .	134
7. The Enforcement of Orders .. .. .	140
8. Force and Effect of Orders .. .. .	145
9. Apprentices .. .. .	150

## CHAPTER VIII.

PROCEDURE UNDER THE CONSPIRACY AND PROTECTION OF PRO- PERTY ACT, 1875 .. .. .	154
Sect. 1. Offences under the Act .. .. .	154
2. The Tribunal and Mode of deciding Cases..	159

## 38 &amp; 39 VICT. C. 90.

An Act to enlarge the powers of County Courts in respect of disputes between Employers and Workmen, and to give other Courts a limited civil jurisdiction in respect of such disputes .. .. .	164
---	-----

## R U L E S

	PAGE
FOR CARRYING INTO EFFECT THE JURISDICTION GIVEN TO COURT OF SUMMARY JURISDICTION IN ENGLAND BY THE EMPLOYERS AND WORKMEN ACT, 1875, 38 & 39 VICT. C. 90 .. ..	175
Form 1. Summons to appear .. ..	179
2. Summons to Witness .. ..	179
3. Judgment for Plaintiff .. ..	180
4. Judgment for Defendant .. ..	180
5. Judgment Summons .. ..	181
6. Order of Commitment .. ..	182
7. Certificate for the Discharge of a Prisoner from Custody .. ..	183
8. Warrant of Distress for Payment of Money by Plaintiff .. ..	184
9. Warrant of Distress for Payment of Money by Defendant .. ..	185
10. Undertaking in Writing by Defendant to perform Contract .. ..	186
11. Order on an Apprentice to perform his Duties ..	187
12. Order rescinding a Contract of Apprenticeship ..	187
13. Committal of an Apprentice.. ..	188
14. Acceptance of Security for Performance of Contract by an Apprentice .. ..	188
15. Application for the summoning of a Bondsman for an Apprentice .. ..	189
16. Summons to a Bondsman for an Apprentice ..	190
17. Order on a Bondsman for an Apprentice to pay Damages .. ..	190
18. Complaint and Minute Book .. ..	191
Costs .. ..	191

---

 38 & 39 VICT. C. 86.

An Act for amending the Law relating to Conspiracy, and to the Protection of Property, and for other Purposes .. ..	192
--	-----

## APPENDIX

	PAGE
OF UNREPEALED STATUTES RELATING TO EMPLOYERS AND WORK-	
MEN .. .. .	209
1 Anne, stat. 2, c. 22 .. .. .	209
9 Geo. 1, c. 27 .. .. .	210
12 Geo. 1, c. 34 .. .. .	210
13 Geo. 1, c. 26 .. .. .	211
13 Geo. 2, c. 8 .. .. .	211
15 Geo. 2, c. 27 .. .. .	213
22 Geo. 2, c. 27 .. .. .	215
27 Geo. 2, c. 7 .. .. .	217
30 Geo. 2, c. 12 .. .. .	218
5 Geo. 3, c. 51 .. .. .	219
14 Geo. 3, c. 25 .. .. .	219
14 Geo. 3, c. 44 .. .. .	221
17 Geo. 3, c. 11 .. .. .	222
17 Geo. 3, c. 55 .. .. .	223
17 Geo. 3, c. 56 .. .. .	224
28 Geo. 3, c. 55 .. .. .	229
32 Geo. 3, c. 56 .. .. .	231
39 & 40 Geo. 3, c. 77 .. .. .	231
43 Geo. 3, c. 86 .. .. .	232
5 Geo. 4, c. 96 .. .. .	232
1 & 2 Will. 4, c. 37 .. .. .	233
5 & 6 Will. 4, c. 27 .. .. .	247
7 Will. 4 & 1 Vict. c. 67 .. .. .	247
2 & 3 Vict. c. 71.. .. .	248
3 & 4 Vict. c. 91.. .. .	249
5 & 6 Vict. c. 68.. .. .	249
6 & 7 Vict. c. 40.. .. .	250
7 & 8 Vict. c. 15.. .. .	260
8 & 9 Vict. c. 77.. .. .	265
8 & 9 Vict. c. 128 .. .. .	265
14 & 15 Vict. c. 92 .. .. .	265
24 & 25 Vict. c. 94 .. .. .	267
24 & 25 Vict. c. 96 .. .. .	268
24 & 25 Vict. c. 97 .. .. .	271
24 & 25 Vict. c. 100 .. .. .	276
25 & 26 Vict. c. 50 .. .. .	278
25 & 26 Vict. c. 101 .. .. .	278
26 & 27 Vict. c. 103 .. .. .	279
28 & 29 Vict. c. 86 .. .. .	280
30 & 31 Vict. c. 105 .. .. .	281



APPENDIX—*continued.*

	PAGE
30 & 31 Vict. c. 130 .. .. .	281
32 & 33 Vict. c. 71 .. .. .	281
33 & 34 Vict. c. 30 .. .. .	282
34 & 35 Vict. c. 31 .. .. .	282
35 & 36 Vict. c. 46 .. .. .	283
35 & 36 Vict. c. 76 .. .. .	285
35 & 36 Vict. c. 77 .. .. .	291
37 & 38 Vict. c. 48 .. .. .	292
38 & 39 Vict. c. 17 .. .. .	293
Mutiny Acts .. .. .	294
38 & 39 Vict. c. 69 .. .. .	298

---

INDEX .. .. .	301
---------------	-----



# THE LABOUR LAWS.

---

## INTRODUCTORY CHAPTERS.

---

### CHAPTER I.

#### SUMMARY PROVISIONS RESPECTING BREACHES OF LABOUR CONTRACTS PRIOR TO LORD ELCHO'S MASTER AND SER- VANT ACT, 1867.

By the common law of this country, that is to say, the law irrespective of any act of parliament, breaches of contract or duty on the part of servants towards their masters, as well as on the part of masters towards their servants, are the subject of a civil action by which damages are awarded. But from a very early period a remedy of another kind, so far as relates to breaches of duty by some descriptions of servants and workmen, was created by act of parliament, and extended from time to time: that is to say, a summary remedy by taking the offending person before a justice of the peace—a corresponding remedy being also given to certain classes of servants for recovery of wages.

Former legislation, however, went much further in its interposition than providing a tribunal and machinery for enforcing contracts. It sought to enforce work, and to regulate the price paid for it; and these various acts of parliament and their history form a very interesting and

instructive subject for historians, political economists and antiquaries (*a*).

The relation of master and servant, arising out of the form of contract known to the law under the name of hiring and service, embraces many varieties of service. We have, in the first place, the broad distinction between domestic servants and every other class of servants. Next to these come servants employed in trade and business, such as clerks, shopmen, and the like. With the foregoing classes of servants the legislature has never thought it necessary to interfere. The respective rights and obligations of master and servant, as arising from the contract between them, have been left to be determined by the common law of the land, and any differences between them to be dealt with by the ordinary tribunals. The contract of hiring and service, so far as relates to servants

(*a*) The Report of the Labour Laws Commissioners, 1875, contains an interesting popular account of the statutes of labourers.

I have in another non-legal work called attention to the contrast between the freedom enjoyed by workmen in the reign of Edward III. and in the reign of Victoria. To enlarge the castle of Windsor, contemporaneously, or nearly so, with the institution of the Order of the Garter, in the middle of the fourteenth century, writs were sent to the sheriffs of London and twelve counties to impress stonemasons and others to work at the king's wages, under the control of William of Wykeham, who was the surveyor (himself in receipt of wages of one shilling a day). Many of the workmen so impressed absconded in order to work for other persons at higher wages, and the works at the castle being retarded, writs were directed, in 1362, to the sheriffs of

London, commanding them to make proclamation prohibiting any person, "whether clerk or layman," from employing any of the men, on pain of forfeiting all their goods; and also commanding the sheriffs to arrest the absent workmen and commit them to Newgate. Passing to the nineteenth century we find early in the present reign a strike among the workmen employed in building the Queen's new palace at Westminster (the Houses of Parliament). In the winter of that year they availed themselves of the vacant seats in her Majesty's Court of Queen's Bench as affording a place of shelter and repose. There I saw them day after day enjoying the warm, if not wholesome, atmosphere of the court, and lulled to sleep by the monotonous proceedings in banc, their slumbers undisturbed by any fear of writs or other compulsory process to force them to return to their work.



of these two classes, is only incidentally referred to in these pages.

Passing by these classes of servants, we come to the numerous class who serve by placing at the service of their employers their labour, whether rude or skilled, according to the branch of productive industry or manufacture to which they belong.

It is to this class, including labourers in husbandry, miners, quarrymen, and the like, and to manufacturers, artificers, and others employed in the various forms of creative industry, that statutory legislation has been directed (*b*).

It may be well to state that those provisions which relate to the prevention of crime (in its strict sense) are beyond the scope of the present inquiry; such, for example, as provide for the punishment of larceny and embezzlement by servants (*c*), and the substitution of a penalty for the former felonious appropriation by a servant of corn to feed his master's horses. So, provisions enforcing the contracts and duties of persons employed in the service of the state are not the subject of investigation here. An important class of statutes enforcing the performance of contracts for manual services, express or implied, between employer and employed, has for the chief object the public weal rather than the immediate advantage of the parties to the contract. To this class belong provisions to prevent the creation or permission of nuisances (such as the emission of smoke and deleterious gases). Another class of provisions has the health, education and physical comfort, and moral welfare of the employed as their object. The Factory Acts, and some provisions of the

(*b*) Report of the Labour Laws Commissioners, 1875.

(*c*) The fraudulent misappropriation of articles and materials of manufacture are, however, included in many statutes, some repealed,

and some still remaining unrepealed, dealing with the summary jurisdiction of magistrates for breaches of contract. The unrepealed provisions of this description will be found in the Appendix, *post*.

recent Coal and Metalliferous Mines Acts (35 & 36 Vict. cc. 76, 77), are leading illustrations of this class.

The prohibition of the payment at public-houses of miners' wages may be put in this category, although capable of being referred to other grounds.

Another class of statutes has for its object the personal safety of the employed in life and limb. Legislative provisions, contained in the acts already cited and others, as to the conduct of mining operations and the fencing of machinery and the sweeping of chimnies, are familiar examples.

All these provisions stand on grounds distinct from statutes enforcing duties and obligations, and which, although founded on and only capable, if penal, of being maintained on public grounds, are put in operation in the immediate interests of the complaining person, whether employer or employed, and have reference to the performance of the terms of contracts, express or implied (*d*).

Without attempting to give a history of this last branch of legislation, the law, as it existed immediately before the Master and Servant Act, 1867, may be concisely stated, so far as relates to the jurisdiction of magistrates.

In England, servants, excepting domestic servants, might summon their masters for wages not exceeding 10*l*. in the case of servants in husbandry, and 5*l*. in other cases; and the justices might order payment of the amount due, with or without costs. In case of non-payment, the amount might be levied by distress; and in case of no available distress, the master might be imprisoned for a period not exceeding three months. When the master resided at a distance and employed agents, foremen or managers, the latter might be proceeded against instead of the master.

(*d*) The Truck Act (1 & 2 Will. 4, c. 37), regulating labour contracts of many kinds, is not touched by the legislation of 1875. The statutes of the same class regulating the giving of tickets with work given out to be manufactured, are only partially affected. The Truck Act and allied provisions will be found in the Appendix.



If the master did not appear on a summons, a warrant might issue for his apprehension.

Servants might be summoned by their masters for absenting themselves from service, or for any other misconduct or misdemeanor in the execution of the contract of service, or otherwise respecting it, or a warrant might be issued in the first instance on an information on oath, at the discretion of the magistrate.

In the case also of a servant having entered into a written signed contract, and not entering upon the service in accordance with its terms, he might be summoned or arrested by warrant.

If the offence were proved, the magistrate might adopt one of three courses. The servant might be committed to the house of correction for a period not exceeding three months (the wages, if any, being abated, *i. e.*, not accruing due, during the imprisonment); or the whole or any part of the wages might be abated; or the magistrate might discharge the servant from his contract, *i. e.*, put an end to the service.

Various provisions existed in reference to particular trades and descriptions of employment, which it is unnecessary to particularize here. Some of these are still in force, and will be specially referred to hereafter.

With respect to apprentices, the law in England stood thus:—

Apprentices could summon their masters before justices for ill-treatment or ill-usage; and upon such summons the apprentice might be discharged.

Apprentices could also summon their masters for wages, provided the sum in question did not exceed 10*l.*; and payment might be enforced by distress.

Masters could proceed either by summons or by warrant against their apprentices for any misdemeanor, misconduct or ill-behaviour, or for absconding; the punishment being an abatement of wages or imprisonment.

The jurisdiction of justices in the case of apprentices,

whether on complaints by or against them, applied to parish apprentices, and to other apprentices, where either no premium was paid or where a premium was paid not exceeding 25*l*.

In order to constitute an offence by a servant, it was not only necessary for the master to prove that the absenting was wrongful (*i. e.*, that the servant had no right to leave), but it must have also appeared that the act was a wilful or guilty act on the part of the servant. If, therefore, the servant acted *bonâ fide* under a fair and reasonable belief in his mind that he had a right to go away, he could not be convicted, although that belief might have been unfounded in point of fact; and the master had no remedy, except by action in a civil court, to recover damages, which was practically no remedy at all (*e*).

As has been already stated, where a master complained against his servant, the magistrate had power to issue a warrant, instead of a summons, upon a statement of the facts on oath.

The act in general operation relating to master and servant (the 4 Geo. 4, c. 34) gave no discretion. The master was served with a summons at the instance of the servant; the servant was arrested on a warrant issued on

(*e*) *Rider v. Wood*, 2 E. & E. 338; 29 L. J. Rep. (N. S.), M. C. 1, was the first case in which this doctrine was applied to cases of master and servant. In that case the servant had given a notice to leave, but the justices thought it was insufficient, and convicted him for leaving the service. The Court of Q. B. directed the justices that unless the servant absented himself without lawful excuse, *and was aware that he had no lawful excuse*, he ought not to be convicted. This case, although acted upon ever since, was narrowed by *Unwin v. Clarke*, Law Rep. 1 Q. B. 417; 35 L. J. Rep.

(N. S.), M. C. 193, where it was held (by *Blackburn, J.*, and *Mellor, J.*; *Shee, J.*, dissenting) that an absenting from the service under a *bonâ fide* but mistaken belief in *law*, as distinguished from a mistake of *fact*, was not within the rule laid down in *Rider v. Wood*. The decision in *Unwin v. Clarke* accords with *Cooper v. Simmons*, 7 H. & N. 707; 31 L. J. Rep. (N. S.), M. C. 138 (the case of an apprentice); but conflicts with the opinion of *Pollock, C. B.*, and *Bramwell, B.*, in *Youle v. Mappin*, 6 H. & N. 753; 30 L. J. Rep. (N. S.), M. C. 234.



the complaint on oath of the master. After the passing of Jervis's Act (11 & 12 Vict. c. 43), which gave justices power to issue a summons in all cases in the first instance, the practice was gradually introduced in England of summoning servants instead of issuing warrants in the first instance; and the issuing of warrants was in general confined to cases where a defendant had absconded or was likely to abscond, or where he did not appear to a summons.

It was a popular notion, and one strongly urged upon the attention of the legislature, that the law was very unequal in giving magistrates the power to inflict imprisonment as a punishment in the case of servants, when there was no direct power to imprison masters; and it was further urged that, independently of the inequality, the law made the mere breach of a contract the subject of proceedings which were in their nature criminal.

In reference, if not in answer, to the first objection, on the ground of inequality, it has been observed that the servant had a right to an order for his wages, if due, although the master might have refused payment, honestly believing that he had a right to withhold them—and in almost all cases of claims for wages, there is a *bonâ fide* dispute between the parties. Very few cases come before a magistrate where the master is knowingly and wilfully withholding the amount. As it would be manifestly unjust to give even the power to send a man, whether master or servant, to prison, in the case of a *bonâ fide* dispute, the law merely provided for enforcing payment of the amount adjudged to be due from a master to his servant, in the first instance by distress; and then in default of distress, imprisonment might be awarded.

In actual practice, therefore, servants had in one respect an advantage over their masters; that is to say, in being able to get a magistrate's order for payment of whatever might be due to them, no matter on what ground the wages were withheld; while the master had no relief before the magistrates unless the absence was *wilful*.

As to the objection, which was frequently urged, that imprisonment should not be awarded for the breach of a contract, it was said there were two modes of dealing with it, either of which took away from the objectors all ground for speaking of the law in the strong terms sometimes made use of. In the first place, there is, it was urged, a breach of contract, but there is something more when a workman wilfully leaves his work unfinished; there is something of a public wrong, considering how many persons, often fellow-workmen in the same class of life, suffer from the sudden neglect of work. In the second place, imprisonment may be viewed as a mode of compelling the performance of contracts. The law of England in a variety of cases allows imprisonment as the mode of compelling the performance of contracts and duties, quite apart from imprisonment for debt. In many instances the law no doubt considers the payment of damages as an equivalent for performance, but in other cases, where damages are not an equivalent, absolute performance is enforced. An agreement to sell an estate is a familiar illustration, where the law of this country will compel actual performance, and will not allow the owner of the estate to keep it and merely pay damages for the breach of his contract; and although, in general, compensation may be substituted for the performance of personal engagements, there are cases where the doing of definite work will be enforced by the Court of Chancery on the pain of imprisonment. In some cases, damages might recompense a master for the breach of a contract by his servant, but the latter is seldom in a condition to pay damages, and therefore, in the absence of any other remedy, he might set his employer at defiance. Has not the master a just right to say, "Satisfy me either in damages, or by performance of your engagement. The former you cannot do, therefore the latter you must do, even on the pain of imprisonment for refusal"? (f).

(f) In Scotland attempts were frequently made to enforce contracts of service *in formâ specifica*, by compelling the service. Proceed-



This argument is, however, open to the observation that, in the instances referred to of enforcing performance of contracts by imprisonment, it is only in the shape of attachment for disobedience to the order of a court that imprisonment is inflicted; whereas, in the case of neglect by a workman, imprisonment might under the former state of the law follow without an opportunity given to him to comply with the decision of the magistrate (*g*).

The extensive alterations in the law of England as to arrest for debt no doubt made the direct imprisonment of workmen and labourers stand out in greater contrast. As long as the first step in an ordinary action to enforce payment of a debt was taking the debtor into custody, there was no great practical distinction felt between that arrest and the imprisonment under a magistrate's order, although in law standing on a totally different footing. But when imprisonment for debt under *mesne* process was got rid of, and this step was followed by the abolition of direct imprisonment in almost all cases, even after judgment obtained, the exceptional nature of a law which punished the neglect to perform a contract for work became apparent to the popular eye.

Another ground of objection to the former law, strongly urged, was the power to issue a warrant against men in the first instance without any previous summons, and various

ings for this purpose might be taken before justices, with an appeal to the Court of Session, but they were usually taken before the sheriffs' substitute by citation and written proofs. But the delay was so great, that frequently before the cause was finished the term of service was done. If completed, however, before the expiration of the service, the servant, if unable to find caution (bail) to return to service, was committed to prison and remained there to the end of his term, at the cost of

the master, who had to maintain him in prison. (See the evidence of Mr. Sheriff Barclay before the Select Committee of the House of Commons on Master and Servant, 1865.)

(*g*) The above and some subsequent observations on the then state of the law are to be found in my letter to Lord Elcho in 1866, printed in the Appendix to the Report of the Committee of the House of Commons of that year on Master and Servant.

cases of alleged hardship were brought forward. On the other side of the question, it was said, that without this discretionary power, men would be enabled to avoid all punishment by removing from one place to another.

A distinct ground of complaint was founded on the power given to one justice to deal with most cases of master and servant, and on the fact that many of these cases were dealt with in a private manner, before a magistrate at his own house and without any publicity, notwithstanding the provisions of Jervis's Act, 11 & 12 Vict. c. 43, making all courts of petty sessions, for hearing cases determinable on summary conviction, public courts and open to all persons as a matter of right.

Whatever might be the view taken of the power of imprisonment and other matters, the former state of the law was objectionable in some important respects. In a claim for wages, the master as well as the servant could be examined upon oath as to the facts; but on a complaint for neglect of work, the servant was not a competent witness. The distinction arose in consequence of proceedings to compel payment of wages being by way of "order," whereas the determination of the magistrate against a servant was termed "a conviction:" and by the existing general law of the country—a defendant is a competent witness in the case of proceedings for an "order," but he is not a competent witness in the case of proceedings for a "conviction."

Another objection to the law, as it stood before the Act of 1867, was the inability of the magistrate to deal with cases of complaints by masters against servants, by the infliction of a fine. Direct imprisonment, or abatement of wages, or discharge from the contract, were the three modes of dealing with these cases. Discharge, although at first sight a desirable course to adopt, was impracticable as a punishment (and therefore impracticable as a remedy), owing to the demand for labour in many branches of manufacture and the ability of men to get



work elsewhere. In fact the neglect of work not unfrequently arose from the desire to be discharged. Direct imprisonment is obviously undesirable, until other methods have failed.

Abatement of wages worked, in some branches of manufacture at least, better than might be expected ; but in many cases it was not a desirable remedy. In the first place, it was open to the observation, that, as the effect of the order is to allow the master to stop wages, it was putting so much money in the master's pocket. A second objection to the abatement of wages was, that it made the punishment depend on the return to work, and therefore held out an inducement to the servant not to return, but to go and work elsewhere, where his wages would not be subject to deduction or to abatement.

In Ireland, the jurisdiction of justices extended to all claims for wages to any apprentice, artificer, labourer, servant or other person to the amount of 10*l.*, enforceable by distress ; and, on the other hand, artificers, labourers and servants absenting themselves, or neglecting to perform their contracts, or guilty of any misconduct or misdemeanor, or, having signed a written agreement, not commencing or entering on the service, might be punished by a fine not exceeding 5*l.*, enforceable by imprisonment not exceeding three months. The justices could also abate wages and discharge the servant from his service if they thought fit.

Masters were punishable by fine not exceeding 40*s.* for ill-usage of their apprentices.

Cases of wilful damage by artificers, workmen, journeymen, apprentices, servants or labourers to goods, wares, work or materials committed to their care were also punishable summarily, if the damage was under 5*l.*, by compensation, and a fine not exceeding 40*s.*, or imprisonment not exceeding one month.

The procedure in any of these cases might be by summons or warrant, and the cases might be heard in general by one or more justices in or out of petty sessions.

With respect to Scotland, the cases in which justices exercised jurisdiction were substantially the same as in England (*h*), and the process against a servant might be a citation (summons) or warrant of apprehension in the first instance.

The power to issue a warrant in the first instance against a servant instead of a summons was, however, more generally exercised in Scotland than in England, and apparently for this reason :—

Jervis's Act (11 & 12 Vict. c. 43), which gave the option to issue a summons under the Master and Servant Act, applied only to England, and it was not until the passing of the Summary Procedure Act, 1864, for Scotland (27 & 28 Vict. c. 53), that the corresponding option was given; and in 1865 the general course still followed was to grant a warrant for the apprehension and interim detention of the respondent.

The Scotch procedure was therefore subject to the

(*h*) As to the application of the statutes to Scotland, Mr. Sheriff *Barclay* (sheriff substitute of Perthshire, eastern district), in giving his evidence before the committee of the House of Commons on master and servant, in 1865, said :—"I may mention to the committee, as being well worth noting, the three statutes which I have taken note of, namely, 20 Geo. 2, c. 19, passed in the year 1747; the 6 Geo. 3, c. 25, passed in the year 1776; and the 4 Geo. 4, c. 34, passed in the year 1823 (extended to some other trades by the 10 Geo. 4). It so happens that all these statutes are put down in our Leading Treatises on Justices, which Sheriff Tait of Edinburgh published in the year 1828 as not being applicable to Scotland; and I thoroughly believe that they were never intended to be applicable to it. I never knew a case under the 20 Geo. 2, or the 6 Geo. 3. The "

statute of Geo. 4 is the one that we act upon; and it is a remarkable fact, that although convictions without number have gone up to our high criminal Court of Justiciary, there never yet has been taken that objection that they do not apply to Scotland; but I think any Scotch lawyer, reading the statute of the 4 Geo. 4, would say that was never intended to apply to Scotland. Of course the committee know better than I that an act is considered to be a British act unless it is said that it does not apply to Scotland negatively, or unless affirmatively it is said that it does apply only to England and Ireland, or some particular locality." *Chairman*:—"As far as Scotland was concerned, the only law that you had was the common law in these matters until the 4 Geo. 4; was it not?" "That is so."



same popular objection as in England, that there was a distinction between the master and servant prejudicial to the latter (*i*). The value of this objection has been already adverted to.

An objection to the ordinary tribunal of justices existed with greater force in Scotland than in England, owing, in some measure at least, to the absence in Scotland of stipendiary magistrates.

On the other hand, the sheriffs' substitutes of the counties and districts in Scotland, being *ex officio* justices of the peace, exercised in that character jurisdiction in cases of master and servant, in addition to their ordinary civil and criminal jurisdiction, and the ordinary justices consulted with the sheriffs' substitutes as stipendiary magistrates.

In Scotland the state of the law with reference to the *arrestment of wages* gave rise to considerable dissatisfaction, and formed part of the vexed question of the relationship of master and servant.

"Arrestment of wages" is the right that exists in Scotland, in every creditor holding a civil decree or judgment, to attach the funds or moveable property of his debtor in the hands of a third party, corresponding to the process of attachment which existed in the city of London, and subsequently applied to England (*k*).

(*i*) The popular view taken of the law on this subject is thus given by Mr. George Newton, a Glasgow potter: "The inequality (of the then existing law) consists in this, that a breach of contract of service on the part of a workman renders him liable to a criminal prosecution, while a breach of contract on the part of the employer only renders him liable to a civil action for damages; the process also by which the one is brought before the court is very different indeed to that by which the other is brought before

the court; while the servant may be dragged as a criminal to the bar, and not unfrequently is dragged there in that way; while he may be taken there manacled, the employer is taken into court as a gentleman; he is simply summoned there and treated with the respect which is due to mankind generally."—Report of Committee of House of Commons on Master and Servant, 1866.

(*k*) See the 23 & 24 Vict. c. 126, s. 28, *et seq.*

The process in Scotland and its effects may be thus stated in popular language :—

The creditor, having obtained his decree, proceeds by a process termed “forthcoming” (that is to say, making the subject forthcoming) to call the party holding the funds or moveable property into court to ascertain what he has, in order that it may be paid over in liquidation of the debt. But besides having the privilege of arresting in this way upon a judgment or decree, the creditor generally has the further privilege of using such power of arrestment upon the “dependence” of any suit; that is to say, along with the writ or summons for bringing the parties into court in a civil case there is combined a warrant to arrest, so that the property arrested remains in the hands of the third party until the issue of the suit, and judgment is given. This right, belonging to all civil creditors, is limited by statute in the case of workmen’s wages. The statute constituting the Small Debt Sheriffs’ Courts in Scotland (1 Vict. c. 41) declares (sect. 7), that workmen’s wages are not arrestable, except so far as there may be a surplus after what is requisite for maintenance; and the statute 8 & 9 Vict. c. 39, abolished arrestment of wages on the dependence of Sheriff Small Debt actions. The practice under the 1 Vict. c. 41, s. 7, of some courts where “forthcomings” are brought on arrestment of workmen’s wages, is to award to the creditor one-half the wages; in other courts a more fluctuating rule is followed, more favourable to the debtor.

Apart from objections of political economists to a system which leads to credit, these arrestment proceedings against workmen, miners and others were so annoying, “that when once a man gets into the position that his wages are arrested, it generally ends in his leaving the locality and going elsewhere” (1).

(1) Evidence of W. Burns, Esq., before the House of Commons Committee in 1866.

## CHAPTER II.

### LORD ELCHO'S MASTER AND SERVANT ACT, 1867.

It was under the circumstances and condition of the law stated in the preceding chapter that the House of Commons, in 1865, appointed a select committee "to inquire into the state of the law as regards contracts of service between master and servant, and as to the expediency of amending the same."

This committee was re-appointed in 1866, with Lord Elcho as chairman, and reported to the House that they had unanimously agreed upon the following resolutions:—

"1. That the law relating to master and servant as it now exists is objectionable.

"2. That all cases arising under the law of master and servant should be publicly tried, in England and Ireland before two or more magistrates or a stipendiary magistrate, and in Scotland, before two or more magistrates or the sheriff.

"3. That procedure should be by summons in England and Ireland, and by warrant to cite in Scotland, and failing appearance of defendant in answer to summons or citation, the court should have power to grant warrant to apprehend.

"4. That punishment should be by fine, and, failing payment, by distress or imprisonment.

"5. That the court should have power, where such a course is deemed advisable, to order the defendant to fulfil the contract, and also, if necessary, to compel him to find security that he will duly do so.

"6. That in aggravated cases of breach of contract, causing injury to person or property, the magistrates or



sheriff should have the power of awarding punishment by imprisonment instead of fine.

“ 7. That the arrest of wages in Scotland in payment of fines should be abolished.

“ 8. That, a suggestion having been made to the committee, viz., that in all cases of breach of contract between master and servant, it should be competent to examine the parties to the action as in civil cases, although the offence be punishable on summary conviction, the committee are not prepared themselves to recommend the adoption of such a principle, involving, as it does, departure from the law of evidence in such cases as now settled” (*a*).

(*a*) Having had some conversation with Lord Elcho, and also with Mr. Gathorne Hardy, on several points of the then existing law, and more especially in reference to orders for the performance of contracts, I, at Lord Elcho's request, embodied my views in a letter to his lordship. After stating the general features of the law as it then stood, I said: “ The alterations I venture to suggest are as follows:—With respect to claims by masters against men, it seems desirable to get rid of the existing distinction between a mere wrongful breach and a wilful or guilty act. The distinction is seldom understood by masters or men, and not always by magistrates. As a necessary consequence of getting rid of this distinction, the power of direct imprisonment must cease for a first offence. The adjudication on a first complaint, if proved, should be either an order to return to work, with or without a fine [or a fine] to a limited amount, and with or without costs. The fine or costs, or both,

if ordered, to be enforced by imprisonment on failure to pay within a given time.

“ The disobedience of the order to return to work, or a second breach under the same contract, to be punishable by increased fine, or by direct imprisonment for a limited time, in the discretion of the magistrate.

“ There is another mode of enforcing the performance of contracts which I should like to see introduced, as I am confident it would work well. I would give power to the magistrates, in cases where the defendant had not returned to his work at the time of the hearing of the summons, to call upon him to enter into a recognizance, with or without sureties, in a limited amount, for the future performance of the contract; and I would confer the same power in all cases of a second complaint, or for disobeying an order of the court. The recognizance in any case to be either in addition to or in substitution for a fine.

“ I think I should even go so far



The act of 30 & 31 Vict. c. 141, intituled, "The Master and Servant Act, 1867," and sometimes called

as to provide that, on finding a surety for the performance of a contract, any direct imprisonment should cease, just as in the case of parties imprisoned for want of sureties to keep the peace or to be of good behaviour.

"For want of a power of this kind, I have on many occasions availed myself of the power of adjourning cases for a fortnight or a month, on the defendant entering into a recognizance with a surety for his appearance, with the understanding that if he returned and continued his work nothing more would be heard of the case, and I have found this course to be attended with beneficial results. A direct power of the kind I have indicated would be, I am convinced, of the greatest advantage to all parties.

"With reference to minor points, I may add that wages should not accrue due during any imprisonment under the order of the magistrates, but any order not to affect the continuance of the contract.

"The process for a first offence should be a summons; for a second offence, a summons or warrant, at the discretion of the magistrates.

"An order, or dismissal, to be in lieu of any proceeding in another court.

"The servant in all cases to be a competent witness.

"In order to avoid numerous disputes that would otherwise be multiplied in consequence of the increased scope of the inquiry, it may be desirable, at least in the case of some trades, to confine the juris-

diction of the magistrates, so far as relates to complaints by masters, to cases where there is a written contract or printed rules, and where the defendant has had a copy given to him either at the time of entering into it, or before the breach complained of.

"This would not interfere with the right of persons to make verbal agreements, but in those cases the masters would be left to their civil remedy for damages in the county court.

"The present jurisdiction in claims for wages by servants against masters, may be retained, abolishing, however, any distinction between the amount of wages over which jurisdiction is given. A general limit of 10*l.* might be imposed, and a power, perhaps, given to impose a fine on the masters, in addition to the wages, if the magistrates thought in any case the wages were withheld without any fair or reasonable ground of dispute. Such fines to be applied as other fines, and not to go to the complainants. Costs to be as at present, in the discretion of the magistrates, and the amount enforceable by imprisonment.

"In order to prevent dissatisfaction on the part of men as to the tribunal, rather than to guard against any real ground for that dissatisfaction, it may be desirable to make the employment by a magistrate of workmen in similar branches of manufacture, a disqualification for hearing disputes."

The summary of Lord Elcho's

“ Lord Elcho’s Act,” was framed upon, and embodied, many of the resolutions of the committee.

The act was introduced into the House of Commons by Lord Elcho early in the session of 1867. After passing that House it was entrusted to the care of the Earl of Lichfield, and underwent considerable amendment in the House of Lords, and received the royal assent on the 20th August, 1867.

In order to understand the legislation of 1875, this act of 1867 requires to be carefully considered. After a definition of the meaning of the term “ contract of service,” it proceeded in the third clause to refer for the contracts within the act to no less than seventeen acts of parliament enumerated in the schedule (*b*). However, it may be taken that all contracts with servants in husbandry, labourers, artificers, and workmen were within its provisions. Its object and effect was to subject disputes arising out of such contracts between employers and their servants to the jurisdiction of the justices of the peace. It provided, that if either employer or employed shall neglect or refuse to fulfil any such contract, or if the employed shall neglect or refuse to enter upon the service, or shall absent himself from it, or “ wherever any question, difference, or dispute shall arise as to the rights or liabilities of either of the parties, or touching any misuse, misdemeanor, misconduct, ill-treatment, or injury to the person or property of either of the parties, an information or complaint may be laid before a justice of the peace.”

Act, given in the text, will show how far these suggestions were adopted. My subsequent views, carrying the civil treatment of these questions still further, will be seen in another chapter.

(*b*) These acts will be found mentioned in a note to sect. 17, of the “ Conspiracy and Protection of Property Act,” *post*. I remarked soon after Lord Elcho’s act passed, that

the want of congruity apparent in it was mainly due to the introduction of the third section and other amendments in the House of Lords. It is only right to state, however, that the third section and schedule restraining the otherwise very extensive scope of the act was framed by a very skilful and experienced parliamentary draftsman.

In dealing with the complaint the magistrate is to deal with it according as the subject-matter falls within one or the other of two distinct categories; for the statute distinguished between simple breach of contract and the case where the breach has been accompanied by circumstances of an "aggravated character." The former class of cases was provided for by the 4th and 9th sections of the act, the latter by the 14th. The 9th section was drawn in an inartificial and confused manner, but its effect may be stated thus:—It enabled the magistrate, where a contract has been broken, and a complaint has been duly preferred according to the procedure prescribed by the 4th section, to do one of several things:

First, he might order an abatement of the whole or any part of any wages then due to the employed.

Or, secondly, he might direct that the contract shall be fulfilled; in which case he might further direct that the party complained against shall find security by recognizance or bond, with or without sureties, for the fulfilment of the contract.

Or, thirdly, he might annul the contract, discharging the parties from it, and apportioning the amount of wages due up to the period of service completed.

Or, fourthly, he might assess and determine the amount of compensation or damage, together with the costs, to be made to the party complaining, inclusive of any wages abated, and direct the same to be paid, whether the contract were ordered to be annulled or not.

Or, lastly, if no amount of compensation or damage could be assessed, or pecuniary compensation would not, in his opinion, meet the circumstances of the case, he might impose a fine not exceeding 20*l.*, of which he might direct that a part not exceeding one-half shall be paid to the complainant; and it was further provided that the magistrate, in addition to the annulling of the contract of service, might, if he thought fit, impose the fine authorized by the act.



If the order directed the performance of the contract, and that the party complained against should find security for its fulfilment, then, unless such party complied with one or other of these alternatives, he might be committed to the common gaol or house of correction till he found such security. But he was not to be detained for more than three months.

By the 11th section, where an order was made for the payment of money and the amount was not paid, it might be levied by distress or poinding of goods and chattels, and in default thereof the party might be imprisoned, but for not more than three months, and without hard labour. Thus, it is seen that by this statute imprisonment which, under the former acts, the magistrate was authorized to impose in the first instance as a punishment for a breach of the contract, was taken away, except as ancillary to the jurisdiction, as the consequence of disobedience to the order of the court. And whereas it might under the former acts have been accompanied by hard labour, the power to order hard labour was here taken away.

So much for cases of simple breach of contract as distinguished from those of an aggravated character dealt with by the 14th section. By that section, where any injury has been inflicted on the person or property of the party complaining, or the misconduct, misdemeanor, or ill-treatment complained of has been of an aggravated character, and has not arisen or been committed in the *bonâ fide* exercise of a legal right existing, or *bonâ fide* or reasonably supposed to exist, and where any pecuniary compensation or other remedy provided by the act would not meet the case, the magistrate might at once commit the party complained against to the common gaol or house of correction, there to be imprisoned, with or without hard labour, for a period not exceeding three months. On a conviction under the latter section an appeal was given to the next quarter sessions (*b*).

(*b*) The above abstract of the act is taken for the most part from the Report of the Royal Commission on Labour Laws, 1875.

In some respects the recommendations of the committee were departed from. Instead of adopting the suggestion that punishment should be by fine (and failing payment, by distress or imprisonment), with a collateral power to compel the performance of contracts by means of a surety, the legislature provided for a system of compensation by awarding payment of money to a complainant in respect of damages of all kinds, apparently extending to unliquidated as well as to liquidated damages.

Although the committee shrank from recommending that defendants should be made competent witnesses, the suggestion to that effect made to the committee was adopted by the legislature, and presented one of the most important features of the act.

It must be borne in mind that neither this act nor any of the previous acts interferes with the right of a master to dismiss his servant for misconduct, nor with the right of a servant to leave his service, if the master neglects to perform his part of the contract.

The retention of the power to impose direct imprisonment under aggravating circumstances appears to have reference to those cases where serious injury had resulted to persons or property from, or where the safety of either persons or property had been jeopardized by, such carelessness or wilful absence as fell short of punishment by any other existing law.

The neglect of a man at a windlass or engine whereby a number of men might have been precipitated to the bottom and killed, though they were warned in time and escaped, or neglect whereby mines might be flooded, or otherwise seriously damaged, are illustrations that appear to have been in the minds of the committee of the House of Commons when recommending the retention of this power.

The operation of the act, on the arrest of wages in Scotland, was confined to providing that no wages accruing due to the employed, after the date of an order, "shall

be assessed to the amount of compensation or damages and costs directed to be paid by him under any such order or warrant of distress or poinding, or be seizable or arrestable under the same."

The act did not create any fresh jurisdiction, so far as relates to the parties or cases within its operation. In Scotland it created a new tribunal, and in England it removed the former jurisdiction of a single justice of the peace; but the subject-matter of the complaint and the parties to it remained without any fresh restriction on the one hand, or limitation on the other.

Such was the general scope of Lord Elcho's Act. It was at the time received with great satisfaction by those against whom master and servant law has principally to be enforced, for the clear intention of the act was to get rid of direct imprisonment as a punishment for simple breaches of contract (*c*).

The great defect of the act was that its administration might be conducted on various and essentially distinct principles. In respect of the very same breach of contract different remedies might be applied—compensation, fine, performance of the contract, or the contract annulled; and further, if the breach amounted, in the opinion of the magistrates, to aggravated misconduct, direct imprisonment with hard labour might be imposed. Not merely might magistrates take different views of each case, but the latitude given permitted the indulgence by them of their particular views as to whether breaches of contract between employer and employed should be dealt with criminally or civilly; and if the former, whether by fine with imprisonment only in the event of non-payment, or by direct imprisonment in the first instance. These important distinctions only existed in the application of the act against the employed, claims by the employed being

(*c*) The present Prime Minister, Mr. Disraeli, passed a high eulogium on it, and on Lord Elcho, at Edinburgh, in the autumn of 1867.



almost always for wages, and consequently enforced by an order for payment, with imprisonment in default (*d*).

Thus, for example, in the courts of the Metropolitan police magistrates, the law appears to have been enforced, so far as relates to the employed, by orders for compensation, or the imposition of small fines and costs (*e*) ; and in Sheffield by calling on the persons summoned for breaches

(*d*) Although I had on the passing of the act observed that the 9th section appeared to be imperfect in containing no reference to the payment of wages simpliciter, and that an order for wages must be treated as an order for compensation or damages, some text writers on master and servant law, and on the practice of courts of summary jurisdiction, suggested that wages were not recoverable under the Master and Servant Act, 1867, but under the act 20 Geo. 2, c. 19, and this view was adopted in many districts. The practical difference was not great in the majority of cases.

"The general opinion has been that the recovery of wages is not within Lord Elcho's Act. I must say I entertain a different opinion myself ; but the text writers who govern the practice of the magistrates' courts, the late Mr. Oke, Mr. Stone, and I think Mr. Manley Smith, all regarded the act as not including wages, and, therefore, I yielded to that, and to the practice which I found prevailing at Sheffield when I went there. The magistrates' clerks continued to issue all the summonses under the act 20 Geo. 2. \* \* \* Practically it has not made any great distinction. \* \* \* They are both governed by Jervis's Act. The payment of a definite sum of money

would be regulated by Jervis's Act, subject to the Small Penalties Act governing both." (Evidence of J. E. Davis before the Royal Commission on Labour Laws.) The commissioners in their report observed : "that a question had been raised whether wages could be recovered under the provisions of this act, and that a difference of practice on this point existed in various courts in the kingdom ; and that while in some districts masters were frequently summoned under the provisions of the act, and not questioning the jurisdiction, were ordered to pay and did pay wages due to their workmen, in others the magistrates had refused to grant summonses under this act.

"We are of opinion that upon the proper construction of the act wages can be sued for under its provisions, but we would suggest that some amendment should be made in the act in order that this part of the law may be freed from any possible doubt."

The Court of Queen's Bench subsequently held (Field, J., dissenting) that wages were within the act. *Millett v. Coleman*, Trinity Term, 1875.

(*e*) See the evidence of Mr. Hannay, metropolitan police magistrate. First Report of the Royal Commission on Labour Laws, 1874.

of subsisting contracts to give security, either with or without a surety for performance (*f*); while, on the other hand, in many places imprisonment was applied almost without discrimination (*g*).

It is to be observed that although the Master and Servant Act, 1867, required the remedy sought for to be stated in the summons, yet that as a summons is issued by the magistrate's clerk, he had inevitably the power, in almost every instance, to control the remedy; and further, it seems to have been clear that the magistrates might amend a summons so as to allow of direct imprisonment for what they were pleased to consider an aggravated breach, although the summons had asked for an adjudication under the ninth section.

(*f*) "I mainly put in force the provision of the act enabling the magistrates to call upon the person summoned to perform his contract; in fact, a rough specific performance of the contract by means of the defendant (generally, of course, the defendant was the employed) undertaking by recognizance to perform his contract with or without a surety. \* \* \* The employer wants his contract performed, not damages or fine. The way to get it performed is to call upon the man to do it, and in a way that can be enforced, namely, by his own recognizance, accompanied, if he can find one, and if it is reasonable to require it, by a surety (in 5*l.* generally)." Evidence of J. E. D., First Report of the Commission.

(*g*) See notes of cases, First Report of Royal Commission on Labour Laws, pp. 57, 58, 59, 108, 109, 110, 111, 118, 119, &c. "Mr. Boa, the second witness, who complained of the act, and who represented an association called the Criminal Law

Repeal Association, consisting of about sixty-two trades in the west of Scotland, numbering in all about 140,000 men, stated that, as he understood the feeling in Scotland, it was considered 'a very good act if the 14th clause were taken out, and the 9th amended'; that the principal complaints in Scotland were against the 14th section, and suggested that aggravated cases, as explained by him, should be tried before stipendiary magistrates, and the real damage assessed and the man treated for the offence civilly; for that in consequence of the discretion given to the justices of the peace, a case too often unwarrantably assumed the character of an aggravated offence, and that this arose from want of knowledge of the law on the part of the judge, and sometimes from the fact that perhaps in some cases the magistrate, who occupies a position above the working man, was moved by class views." (Second and Final Report of the Royal Commission on Labour Laws.)

Apart from numerous cases, in which, although the spirit of the act was violated, a strictly legal course was pursued, great confusion appears to have arisen from the act having blended together so many remedies, leading to great irregularities (*h*).

“From a careful observation of the cases of conviction under this act which have taken place at petty sessions, it certainly appears that the act has been misconstrued and misunderstood in many points, and that many of the convictions, if made the subject of appeal, would in all probability have been quashed, for we find cases where imprisonment in case of non-payment of a fine imposed has been awarded for a longer period than the law allows. Hard labour has been made part of the sentence where the term of imprisonment, in default of the payment of the fine, has been fixed by the court, whereas by the 11th section it is specially provided that no such imprisonment should be with hard labour. Adjudications have been double, that is to say, requiring the defendant to do two or more things legally inconsistent. Defendants have been brought into court without knowing what the complainant required, the amount of compensation, damages, or other remedy being omitted from the summons, contrary to the direction contained in section 4, which expressly requires that these particulars shall be stated in the summons.

“And in cases in which complainants have asked for small specific sums as compensation, or have asked for security for performance of the contract, the sentence has been direct imprisonment with hard labour for considerable periods, without any option of tendering the compensation or finding the security asked for, thus making useless the provision intended for the protection of the defendants.

(*h*) It is right to point out that, as originally introduced into the House of Commons, it was proposed to leave the administration of the

criminal clause in the act to the quarter sessions in England and Ireland, and to justices of quarter sessions in Scotland.



In many cases, too, it appears that where the defendant has pleaded guilty, the sentence, without any evidence being heard, has been more severe than the remedy demanded by the summons" (*i*).

It is not a matter for wonder that after the act had been in force for some years, the estimation in which it was held was as various as its administration.

Metropolitan police magistrates spoke very favourably of it (*k*), and so, as compared with the previous law, did the late police magistrate for Sheffield (who had previously for a period both before and subsequent to the Act of 1867 held the office of stipendiary magistrate for Stoke-upon-Trent) (*l*). Even the employed bore indirect testimony to its advantages where it had been mildly administered (*m*).

(*i*) Second and final Report of the Royal Commission on Labour Laws.

(*k*) "Mr. Hannay, police magistrate at Worship Street, who had had great experience of the operation of the act, classified the cases which had come under his notice under the two heads of, first, disputes between masters and men in the trades of cabinet maker and tailors, mostly foreigners: and, secondly, complaints against idle apprentices. He pointed out clearly the process under the act, the advantage obtained from the fact that the respondent himself is heard, the question being, in fact, well discussed and understood; and particularly pointed out that imprisonment under the 9th section is only in consequence of non-payment of the fine or non-compliance with the order of the court, that the act is really made equally for man and for master, and that in many cases compensation for withholding wages has been paid under the stress of a summons under the act, and that

without imprisonment in case of non-payment of fine it would be impossible to enforce the act at all." (Second and Final Report of the Royal Commission on Labour Laws).

Mr. Bridge, police magistrate for the Hammersmith and Wandsworth district, said of the act: "It works beneficially and easily in my experience." (*Id.*, Appendix, p. 64.)

(*l*) "Mr. Davis, relying upon the great experience he had had in the matter, insisted upon the great use of the 9th section as a means of enforcing specific performance of a contract." (Second and Final Report of the Royal Commission on Labour Laws.)

(*m*) Mr. Hannay, police magistrate at Worship Street, "stated that the men were very fond of this act, and if refused a summons under it, departed much disappointed, as the costs were higher and the delay greater in the county than in the police courts." (Second and Final Report of the Royal Commission on Labour Laws). Mr. Bridge,



The act presented a widely different aspect to those who had experienced the harsher mode of its application already adverted to; and the law itself was (not unnaturally) condemned as expressly visiting simple breaches of contract by the employed with fine and imprisonment, while it was the administration of the law, or the too wide discretion given by it, that was really in fault.

police magistrate at Hammersmith and Wandsworth, stated that the act "worked beneficially and easily," and that it was used "almost entirely by the workmen to get their contracts performed by the masters if they are illegally dismissed." (*Id.*, Minutes of Evidence.) Mr. Sale, secretary of a trades union, and the

first witness examined before the Commission, speaking of the effect of the act at Sheffield, where (as has been already stated) the act was carried out by orders for performance, said "the men have generally obeyed the order of the magistrates and returned to their work." (First Report, Minutes of Evidence.)

## CHAPTER III.

THE COMBINATION LAWS AND THE CRIMINAL LAW  
AMENDMENT ACT, 1871.

THE dissatisfaction felt by workmen with the mode of dealing with breaches of contract under the Master and Servant Act, 1867, was exceeded probably by the distaste for the Criminal Law Amendment Act, 1871; the former act having reference to the relations of master and servant *inter se*, the latter having reference to the disturbance of those relations from without (*a*).

In order to comprehend the changes of the law in 1875, it is absolutely necessary that the provisions of the act of 1871 should be understood, and to make them thoroughly intelligible it is essential, in turn, to review concisely the combination laws.

As to combination at common law, "each person has a right to choose whether he will labour or not, and also to choose the terms on which he will consent to labour, if labour be his choice. The power of choice in respect of labour and terms, which one person may exercise and declare singly, many after consultation may exercise jointly, and they may make a simultaneous declaration of their choice, and may lawfully act thereon for the immediate purpose of obtaining the required terms; but they cannot create any mutual obligation having the legal effect of binding each other not to work or not to employ unless upon terms allowed by the combination. Any arrangement for that purpose, whatever may be its purport or

(a) See Report of the Royal Commission on Labour Laws, 1875.

form, does not bind as an agreement, but is illegal, though not unlawful, on account of restraint of trade, and therefore void. Every party to it, who chooses to put an end to it, is thenceforward as free to claim his own terms for his own labour, as if such arrangement had never been made; and any attempt to enforce, by unlawful coercion, performance of any such supposed agreement, against a party who chooses to break from it, and labour or contract for labour upon different terms, is an attempt to obstruct him in the lawful exercise of his right to freedom to trade, and is thus a private wrong. It is also a violation of a duty towards the public—that is to say, of the duty to abstain from obstructing the exercise of the right to the free course of trade. A person can neither alienate for a time his freedom to dispose of his own labour, or his own capital, according to his own will (*b*), nor alienate such freedom generally, and make himself a slave (*c*); it follows that he cannot transfer it to the governing body of a union” (*d*).

For many centuries the statute law of England, infringing the common law right of combination, bore unjustly and oppressively on the labouring classes. The labourer was not permitted to take advantage of favourable circumstances which would have enhanced the marketable value of his labour. The rate of wages, and the amount of work to be done to entitle him to such wages, were either settled by statute or fixed by persons invested with statutory authority for that purpose. Of course a legislation framed in such a spirit would not tolerate any combination on the part of the labouring class to improve its condition in either of these respects, and a series of statutes, known

(*b*) See *Hilton v. Eckersley*, 6 E. & B. 47.

(*c*) See the argument of Hargrave in the negro *Sommerset's case*, 20 State Trials, 23.

(*d*) Memorandum by Sir William Erle, late Chief Justice of the Com-

mon Pleas, on the law relating to trade unions, appended to the Eleventh and Final Report of the Royal Commission on the Organization and Rules of Trade Unions and other Associations. The American jurists take the same general view.



under the name of the Combination Laws, prohibited, under severe penalties, all combinations having for their object either the raising of wages or the interfering with the hours of labour. That the policy on which this legislation was founded was mistaken and unsound is now universally admitted. The interest of the man who desires to employ the labour of others, and that of the man who seeks to dispose of his labour, may be in a certain sense antagonistic, as the interest of the buyer, who seeks to buy at the lowest possible rate, and that of the seller, who seeks to sell at the highest, must necessarily be; but the state has no interest in upholding the one at the expense of the other, but, in the interest of all parties concerned, the community as consumers included, should leave both to adjust the true mean between their conflicting interests with reference to the economic laws by which the value of all marketable commodities, labour included, will, if things are left to themselves, be determined. And, not only does this hold good as to the adjustment of the terms of hiring, but also as to the power of combining on either side to obtain more advantageous terms than might be obtained by individual effort. More especially is this so as regards the labourer, who in any contest as to the terms of hiring, meets the employer at a great disadvantage, arising from the superior means possessed by the latter, whereby he is enabled to wait with comparatively little inconvenience, while the other, living as it were from day to day, and possessing no fund to fall back upon, soon finds his resources exhausted, and has no alternative but to submit. But the case is altogether different when the workman becomes one of an organized body, combined under a constituted government, possessing funds resulting from regular contributions, and acting as a united whole under the guidance and direction of shrewd and intelligent leaders.

So circumstanced, the working man is enabled to meet the employer on equal terms. He is no longer helpless



or without resources. He has the body to which he belongs to uphold him, and the common purse to support him till the employer shall have consented to better and more advantageous terms. That in a free country men should be at liberty to combine for the protection of their common interest, so long as they do not interfere with the rights of others, and are guilty of no breach of the law, ought not to admit of question. But it was not till political economy had become a science, and the laws by which the value of labour, as an element of production, and its relation to capital, had been made apparent, that the unsoundness of the prior legislation was seen, and its repeal resolved on by the legislature.

It is now half a century ago since by the statute of the 5 Geo. 4, c. 95, all the prior acts relative to combinations of workmen or of masters, as to raising or lowering the rate of wages, or altering the hours or quantity of work, or regulating the manner of carrying on business, were at once swept away. After a repeal of all the former statutes it was by the 2nd section expressly provided that "journeymen, workmen, or other persons who shall enter into any combination to obtain an advance, or to fix the rate of wages, or to lessen or alter the hours or duration of the time of working, or to decrease the quantity of work, or to induce another to depart from his service before the end of the time or term for which he is hired, or to quit or return his work before the same shall be finished, or not being hired, to refuse to enter into work or employment, or to regulate the mode of carrying on any manufacture, trade or business, or the management thereof, shall not therefore be subject or liable to any indictment or prosecution for conspiracy, or to any other criminal information or punishment whatever, under the common or the statute law." A corresponding liberty was given by the 3rd section to the employer. Lest, however, the liberty thus conceded of combining to induce others to quit work or to refuse to enter employ-

ment, or to regulate the mode of carrying on business, might be abused by the use of violence or intimidation for the purpose of coercion, two enactments were super-added which were the forerunners of the Criminal Law Amendment Act.

By the 5th section it was enacted "that if any person by violence to the person or property, by threats, or by intimidation, shall unlawfully or maliciously force another to depart from his hiring or work before the end of the time or term for which he is hired, or return his work before the same shall be finished, or damnify, spoil, or destroy any machinery, tools, goods, wares, or work, or prevent any person not being hired from accepting any work or employment; or if any person shall wilfully or maliciously use or employ violence to the person or property, threats, or intimidation towards another on account of his not complying with or conforming to any rules, orders, resolutions, or regulations made to obtain an advance of wages, or to lessen or alter the hours of working, or to decrease the quantity of work, or to regulate the mode of carrying on any manufacture, trade, or business, or the management thereof, or if any person by violence to the person or property, by threats or by intimidation, shall wilfully or maliciously force any master or mistress manufacturer, his or her foreman or agent, to make any alteration in their mode of regulating, managing, conducting, or carrying on their manufacture, trade, or business; every person so offending, or causing, procuring, aiding, abetting, or assisting in such offence, being convicted thereof, in manner hereafter mentioned, shall be imprisoned only, or imprisoned and kept to hard labour, for any term not exceeding two calendar months."

Scarcely, however, had this statute become law when it was found that the liberty granted by the second and third sections was likely to be attended with mischievous consequences. Extensive associations were found to exist with an elaborate and effective organization, the avowed

purpose of which, going far beyond the protection of their own interests with reference to wages or conditions of labour, was to control the masters in the conduct of their business, and to ruin such of them as refused to submit to their dictation ; others sprang into existence in the course of a few months. In one of these associations, by one of its articles, delegates, who were to be regularly appointed, were to “ point out the masters whom they disliked,” and were “ to warn such masters of the danger in which they were placed,” and “ to try everything which prudence might dictate to put such masters out of the trade.” In another of these combinations, the Seamen’s Union, the effect of one of the rules of the association, viz., that men thus employed should not do anything which they had never before been called on to do as seamen, led, on the occasion of a vessel getting on a sand-bank, when it became necessary to shift the ballast, to a refusal on the part of the men to do this work, as not having been done by them before ; the consequence of which was that other assistance had to be sought, and that the owners had to pay a considerable sum for salvage.

In the ensuing year, a motion having been made in the House of Commons, by Mr. Huskisson, for the appointment of a select committee to inquire into the effects of the act of the 5 Geo. 4, c. 95, in respect of the conduct of workmen and others in different parts of the United Kingdom, and to report their opinion how far it might be necessary to repeal or amend the act, a committee was appointed accordingly. After a full investigation, the committee reported, recommending a repeal of the act of the preceding session, thereby to restore the operation of the common law in the instances in which it was suspended by the second and third clauses of the act ; at the same time recommending that exception should be made to its operation in favour of meetings and consultations, amongst either masters or workmen, the object of which was peaceably to consult upon the rate of wages to be either given



or received, and to agree to co-operate with each other in endeavouring to raise or lower it, or to settle the hours of labour ; “ an exception,” it was said, which, “ while it gave to those in the different classes of masters and workmen ample means of maintaining their respective interests, would not afford any support to the assumption of power or dictation in either party to the prejudice of the other, least of all to that assumption of control on the part of the workmen in the conduct of any business or manufacture, which was utterly incompatible with the necessary authority of the master, at whose risk and by whose capital it was to be carried on.”

In recommending that liberty of associating and co-operating together, so far as wages or hours of labour were concerned, should be preserved, alike to masters and workmen, the committee “ deemed it essential to the regard which was due to the free exercise of individual judgment,” to propose “ that the resolutions of any such association should be allowed to bind only parties actually present, or personally consenting ; ” adding that “ all combination beyond this ought to be at the risk of the parties, and open, as theretofore, to the animadversion of the common law, and should be dealt with according to the circumstances of each case.” The committee further recommended that every precaution should be taken to insure a safe and free option to those who, from whatever motive, might have no inclination to take a part in such associations. “ The most effective security,” they observe, “ should be taken that legislative enactments can afford, that in becoming parties to any association, or subject to their authority, individuals should be left to act under the impulse of their own free will alone ; and that those who wish to abstain from them, should be enabled to do so, and continue their service or engage their industry on whatever terms or to whatever master they may choose, in perfect security against molestation, insult, or personal danger of what kind soever.” For the punishment of



offences of the nature alluded to, the committee recommended that a summary jurisdiction should be established, with a provision that would afford greater facility to its operation, by permitting conviction to take place on the oath of one credible witness, and by giving a discretion in respect to the punishment to be inflicted in case of conviction, to the extent of six months imprisonment, with or without hard labour, according to the circumstance of the case.

A bill, passed in conformity with these resolutions, was forthwith introduced into parliament and became law as the 6 Geo. 4, c. 129. It repealed the former act, but at the same time repealed the statutes which it had been the primary purpose of that act to abrogate, leaving the combinations which had been authorized by the 2nd and 3rd sections of the prior act to be dealt with at the common law.

The act retained, and in a still more comprehensive and stringent form, the provisions of the former statute relative to the coercion or intimidation of others. The 3rd section enacted that, if any person by violence to person or property, or by threats or intimidation, or by molesting, or in any way obstructing another,—

1. Shall force or endeavour to force any journeyman, manufacturer, workman, or other person, hired or employed in any manufacture, trade, or business, to depart from his hiring, employment, or work, or to return his work before it is finished, or prevent or endeavour to prevent any journeyman, manufacturer, workman, or other person not being hired or employed, from hiring himself to or from accepting work or employment from any person ;

2. Or shall use such means for the purpose of forcing or inducing such person to belong to any club or association, or to contribute to any common fund, or to pay any fine or penalty on account of his not belonging to any particular club or association, or of his not having con-

tributed or having refused to contribute to any common fund or to pay any fine or penalty, or on account of his not having complied, or of his refusing to comply with any rules, orders, resolutions, or regulations made to obtain an advance or to reduce the rate of wages, or to lessen the hours of working, or to decrease or alter the quantity of work, or to regulate the mode of carrying on any manufacture, trade, or business, or the management thereof;

3. Or to force or endeavour to force any manufacturer or person carrying on any trade or business, to make any alteration in his mode of regulating, managing, conducting, or carrying on such manufacture, trade, or business, or to limit the number of his apprentices, or the number or description of his journeymen, workmen, or servants,—

Such person shall be liable, with any person aiding, abetting, or assisting therein, to three months imprisonment, with or without hard labour (*e*).

Thus the law remained till the year 1867. In the meantime the statutes prohibiting combination having been removed, trade unions had sprung up in great numbers, and it soon became manifest that, while eminently effective for the protection of the interests of the workman, they were also capable, in the hands of violent and unscrupulous men, of being converted into instruments of intolerable tyranny and oppression. The organized strikes, which at first were viewed with much disapprobation, might be only the form in which a legitimate contest with the employer could be carried on. But the outrages at Sheffield and Manchester could but excite general indignation, and the proceedings of the Tailors'

(*e*) Sir William Erle, late Chief Justice of the Common Pleas, has expressed his opinion that the act 6 Geo. 4, c. 129, was "declaratory of the common law as to the offence and operative only to make a summary remedy." Memorandum on

the Law relating to Trade Unions appended to the Eleventh and Final Report of the Royal Commission on the Organization and Rules of Trade Unions and other Associations.

Association in the metropolis, and the undisguised attempts then made by incessant molestation to compel persons not belonging to the association to act under its dictation, was felt to amount to an unendurable tyranny which must be put down by the law.

On the other hand, legal decisions had taken place which showed that while combinations to affect the rate of wages, or the hours of work, had ceased to be criminal, these associations, being, according to the ancient legal doctrine, in restraint of trade, and therefore against public policy, had no legal status, and could not invoke the aid of the law for the protection of property and other civil rights.

It being doubted whether under all the circumstances the existing state of the law was satisfactory, in the year 1867 a commission was issued to inquire into and report on the organization and rules of trades unions and other associations, whether of workmen or employers, and to inquire into and report on the effect produced by such trades unions and associations on the workmen and employers respectively, and on the relations between workmen and employers, and on the trade and industry of the country; with power to investigate any recent acts of intimidation, outrage, or wrong alleged to have been promoted, encouraged, or connived at by such trades unions or other associations, and also to suggest any improvements to be made in the law with respect to the matters aforesaid, or with respect to the relations between workmen and their employers, for the mutual benefit of both parties.

From the inquiry instituted by that commission, the evidence taken by it, the very able but conflicting reports of the commissioners, and the public discussion of the subject, there ensued two contemporaneous acts of the legislature, the 34 & 35 Vict. c. 31, and the 34 & 35 Vict. c. 32.

In the first of these statutes, entitled "An Act to



amend the Law relating to Trades Unions," any possible criminality which by the common law still attached to a combination in the nature of a trade union, as being in restraint of trade, and therefore a conspiracy to carry out an illegal purpose, was removed, and the status of trade unions with reference to civil rights was materially improved. It was provided that—

1. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful, so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise.
2. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust.

These enactments are followed by express provision—evidently intended to prevent persons from binding themselves to remain members of any such union in perpetuity, and to secure to them perfect freedom in this respect—that certain agreements, viz.,—

1. Any agreement between members of a trade union, as such, concerning the conditions on which any members for the time being of such trade union shall or shall not sell their goods, transact business, employ or be employed:
2. Any agreement for the payment by any person of any subscription or penalty to a trade union:
3. Any agreement for the application of the funds of a trade union, to provide benefits to members, or to furnish contributions to any employer or workman, not a member of such trade union, in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union; or to discharge any fine imposed upon any person by sentence of a court of justice; or any agreement made between



one trade union and another; or any bond to secure the performance of any of the above-mentioned agreements,—

shall not be affected by the statute so as to make such agreement available in a court of law on the one hand or unlawful on the other.

To prevent any partial administration of the law the act provided that any complaint made under it should be heard by a metropolitan police magistrate, or other stipendiary magistrate, if arising where such magistrates have jurisdiction, or before the Lord Mayor or an alderman, if arising within the city of London; in all other cases before two justices of the peace. It excluded any person from acting in such a case who is a master, or father, son, or brother of a master in the particular manufacture, trade, or business in, or in connexion with, which the offence shall be charged to have been committed.

It appears from the returns made to the House of Commons, in the years 1873-4, that the total number of convictions between the years 1871-3, in England and Wales, amounted to 135, with 10 appeals, in 6 of which the conviction was quashed, and in 4 affirmed; in Scotland to 12, and in Ireland to 17. That between 1st January, 1873, and 1st April, 1874, the convictions in England and Wales were 39, whereof 12 were the subject of appeal to quarter sessions, 8 of them being quashed, and 4 affirmed; in Scotland 9, and in Ireland 12.

The act further provided, while it excluded trade unions from registration under the Friendly Societies Acts, and the Industrial and Provident Societies Act, that such unions might be registered under the provisions of the act itself.

The concomitant statute, passed on the same day, was an act to amend the Criminal Law relating to violence, threats, and intimidation, commonly called the Criminal Law Amendment Act, 1871, being the act as to the working of which we are directed by the present commission to report.

The majority of the Commissioners of 1867 had reported in favour of maintaining the law as established by the act of the 6 Geo. 4, c. 129, and parliament, after the experience of the previous ten years, was not disposed to do away with a law passed for the purpose of keeping these associations from abusing their power in coercing others to submit to their dictation. But complaints having been made of the vagueness and uncertainty of the terms "intimidation," "molestation," and "obstruction," used in the previous act, and of the latitude which was thereby afforded in administering the law under it, care was now taken to make the law clear by a full definition of what was meant by these terms.

The law, as established by the act, may be stated thus:—

Any person who, with a view to coerce another—

1. Being a master, to dismiss or to cease to employ any workman, or being a workman to quit any employment or to return work before it is finished; or,
2. Being a master, not to offer, or being a workman not to accept any employment or work; or,
3. Being a master or workman, to belong or not to belong to any temporary or permanent association or combination; or,
4. Being a master or workman, to pay any fine or penalty imposed by any temporary or permanent association or combination; or,
5. Being a master, to alter the mode of carrying on his business, or the number or description of any persons employed by him,—

Shall do any one or more of the following acts, viz. :—

1. Use violence to any person or any property; or,
2. Threaten or intimidate any person in such manner as would justify a justice of the peace, on complaint made to him, to bind over the person so threatening or intimidating to keep the peace; or,

3. Molest or obstruct any person in manner defined by the section, that is to say:—

*a.* By persistently following such person about from place to place ;

*b.* By hiding any tools, clothes, or other property owned or used by such person, or depriving him of, or hindering him in the use thereof;

*c.* By watching or besetting the house or other place where such person resides or works, or carries on business, or happens to be, or the approach to such house or place, or if with two or more other persons to follow such person in a disorderly manner in or through any street or road—

shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months.

To these enactments were added two important provisions:

That nothing in this section shall prevent any person from being liable under any other act, or otherwise, to any other or higher punishment than is provided for any offence by this section, so that no person be punished twice for the same offence.

That no person shall be liable to any punishment for doing or conspiring to do any act on the ground that such act restrains or tends to restrain the free course of trade, unless such act is one of the acts hereinbefore specified in this section, and is done with the object of coercing as hereinbefore mentioned (*f*).

Unlike the Master and Servant Act, 1867, it does not appear that the act on the whole was imperfectly administered (*g*).

(*f*) The preceding summary of the combination laws is taken from the Second and Final Report of the Royal Commission on Labour Laws.

(*g*) Second and Final Report of the Royal Commission on Labour Laws.



Nevertheless, as has been stated, great desire was expressed on the part of trade unions for a repeal of the act, and that the offences dealt with by it should be left to the common or ordinary criminal law of the land. The first ground upon which this repeal was insisted upon was that the act was "vague;" that it was a "moral wrong" as against the working man, because it dealt only with acts committed by one class of the community, and with offences which should be dealt with by the ordinary criminal law; that it was one-sided, in that under the act it was impossible to convict masters, in consequence of the impossibility of obtaining evidence against them, though these witnesses were convinced that crimes similar in result to those for which the men were punished were constantly committed by the masters; that black lists were analogous in effect to coercion and intimidation as practised by the men.

Complaint was also made that the law was vague, in that "intimidation" and "molestation" were so insufficiently defined that by the act means of punishing a workman were put into the hands of a judge which the common law of the land could hardly furnish him with; and it was stated that many acts were improperly held to be "*picketing*," while they amounted to little more than the communication to union men of the existence of a strike. It appeared that, in fact, that part of the first section of the act which deals with picketing "was, to the objectors, the most objectionable part of it." It was said that that part of the section was "overdrawn," and that what were really no offences were often made such under the act. Another complaint was that the word "coerce" was interpreted to mean nothing more than to "induce" or "persuade." And it was further said that objection existed to the tribunal before which offences under the act were tried on the ground of prejudice on the part of the judge. Lastly, it was said that the option of being tried by a jury or by a

stipendiary magistrate, should the act still be retained, would be a more satisfactory mode of trial (*h*).

On the other hand, the act was regarded by employers of labour as a very useful act. To its effect they attributed the, if not entire cessation of the practice of picketing, yet the alteration in its character which had rendered the relation existing between master and men much more satisfactory, and the adjustment of trade disputes much more easy (*i*).

(*h*) Second and Final Report of the Royal Commission on Labour Laws.

(*i*) *Id.* In reference to the evidence given on the part of employers before the Commissioners on this subject, the Report observed :—  
“All their evidence was rather in the nature of an induction from their former experience of the intimidating and coercive effects of picketing, that its present altered character was entirely to be attributed to the operation of the act.

“Some part of the evidence given by the witnesses who objected to the act, was in reply to that part of the evidence of the employers of

labour, in which they had expressed their conviction that the better feeling which existed between labour and capital was very much to be attributed to the existence of this act, and explained the more peaceable relations, which they admitted now existed, to a better and daily growing understanding of the relation between labour and capital, to the introduction of the principle of arbitration, to the continued prosperous state of trade, and predicted that if the act should remain in force and trade become worse, the act would have to be more frequently put in operation.”

## CHAPTER IV.

THE LAW OF CONSPIRACY IN RELATION TO EMPLOYER  
AND EMPLOYED.

ALTHOUGH closely connected with the subject of the last chapter, the law of conspiracy in relation to employer and employed having been affected by the legislation of 1875, it is desirable to give separately a concise statement of its previous position.

Conspiracy has been concisely defined as an agreement to defraud or injure the public or any individual person (*a*), or, more fully expressed, "the crime of conspiracy consists in an agreement by two persons (not being husband and wife), or more than two persons, to commit a crime, or fraudulently or maliciously to injure or prejudice the public or any individual person" (*b*), and "every agreement to defraud and despoil any other person of any property, and every malicious agreement with intent to injure or prejudice any other in his person, reputation, office, profession, occupation, state or condition in society, or to disturb or annoy him in the possession or exercise of any civil right, or to destroy or damage any of his property," is within the meaning of the above definition (*c*).

"The law protecting the relation of master and servant, employer and employed, from interference by third parties

(*a*) Fourth Report of Criminal Law Commissioners, 1848, under the Commission of 1845.

(*b*) Seventh Report of Criminal Law Commissioners, 1843.

(*c*) *Ibid.* "Conspiracy is the corrupt agreeing together of two or more persons to do, by concerted action, something unlawful, either

as a means or an end. The unlawful thing must either be such as would be indictable, performed by one alone; or not being such, be of a nature particularly adapted to injure the public or some individual by reason of the combination." New York Criminal Code Commissioners, cited 2 Bishop, § 172.



is supplemented by this common law relating to conspiracy. This law becomes applicable not only where two or more persons combine to do any act which is in itself an offence, and would be criminal if done by any one of them, but also in many instances in which the act which is the purpose of the conspiracy if done by one would not be criminal, as, for instance, where several, with the malicious intention to injure, combine to violate a private right, the violation of which by a single individual, though not criminal, would be wrongful, and would give a right of civil action to the party aggrieved (*d*).

“The first objection made to the existing law is that it is anomalous and inconsistent, as it enables men to be punished for things as criminal, which, if done by them singly, would not be criminal at all. Secondly, it is objected that this law makes men liable to be more heavily punished, under a charge of conspiracy, for things for which they would be liable only to a less severe punishment if done by each of them singly, as where men are charged with conspiring to do any of the acts made penal by the Criminal Law Amendment Act, and to which a specific punishment is attached by that act.

“A third objection is, that by the application of the law of conspiracy men may be convicted and punished for acts which ought not to be dealt with as offences, and in respect of which the tendency of recent legislation has been to afford immunity from liability to punishment.

“It is suggested that the law of conspiracy should be amended by limiting the offence to cases in which the act, which is the subject of the conspiracy, would be a crime if done by any single individual. Why, it is said, should that be a crime in many, which in one is innocent? Every act must, in its nature, be either criminal or inno-

(*d*) Second and Final Report of the Royal Commission on Labour Laws. It must be observed that the “existing law” spoken of in the

extract from this report necessarily refers to the law as existing previous to the Labour Laws of 1875.

cent. If innocent in A., how does it become criminal because B. joins in committing it?

“ This argument is a very specious one, and at first sight seems to have reason on its side. But those who urge it appear to us to overlook the true ground on which the law is founded and the principle involved in it. Although it is true that an act may form the subject-matter of a charge of conspiracy which would not be a crime in a single individual, it is a mistake to suppose that an act in itself innocent can be made the subject of a charge of conspiracy if done by several. Conspiracy, in the form which we have here to deal with, always pre-supposes an act or an end in itself criminal or wrongful, or which if done by a single individual would give a right of action, or other civil remedy, as being a violation of another’s right.

“ Conspiracy may be divided into three classes:—First, where the end to be accomplished would be a crime in each of the conspiring parties, a class which offers no difficulty. Secondly, where the purpose of the conspiracy is lawful, but the means to be resorted to are criminal, as where the conspiracy is to support a cause believed to be just by perjured evidence. Here, the proximate or immediate intention of the parties being to commit a crime, the conspiracy is to do something criminal, and here, again, the case is consequently free from difficulty. The third and last case is, where, with a malicious design to do an injury, the purpose is to effect a wrong, though not such a wrong as when perpetrated by a single individual would amount to an offence under the criminal law. Thus, an attempt to destroy a man’s credit and effect his ruin by spreading reports of his insolvency would be a wrongful act, which would entitle the party whose credit was thus attacked to bring an action as for a civil wrong; but it would not be an indictable offence. If it be asked on what principle a combination of several to effect the like wrongful purpose becomes an offence, the answer is—upon the same principle that any other civil wrong, when

it assumes a more aggravated and formidable character, is constituted an offence, and becomes transferred from the domain of the civil to that of the criminal law. All offences, it need hardly be observed, are either in their nature offences against the community, or are primarily offences against individuals. As regards the latter class every offence against person or property or other individual right, involves a civil wrong, which would have entitled the person injured to civil redress, were it not that, owing to the aggravated nature of the wrong, and the general insecurity to society which would ensue from such acts if allowed to go unpunished, the state steps in and, merging the wrong done to the party immediately interested in the larger wrong done to the community, converts the wrong done by the infraction of individual right into a crime, and subjects the wrong-doer to punishment, to prevent, as far as possible, the recurrence of the offence. Thus the dividing line between private wrongs, as entitling the party injured to civil remedies, and private wrongs thus converted into public wrongs, in other words, into offences or crimes, is to be found in the more aggravated and formidable character which the violation of individual rights under given circumstances assumes. It is upon this principle that the law of conspiracy, by which the violation of private right, which if done by one would only be the subject of civil remedy, when done by several is constituted a crime, can be vindicated as necessary and just. It is obvious that a wrongful violation of another man's right committed by many assumes a far more formidable and offensive character than when committed by a single individual. The party assailed may be able by recourse to the ordinary civil remedies to defend himself against the attacks of one. It becomes a very different thing when he has to defend himself against many combined to do him injury. To take the case, put by way of illustration, that of false representations, made to ruin a man's business by raising a belief of his insolvency.



Such an attempt made by one might be met and repelled. It would obviously assume very different proportions and a far more formidable character if made by a number of persons confederated together for the purpose, and who should simultaneously, and in a variety of directions, take measures to effect the common purpose. A variety of other instances illustrative of the principle might be put. The law has, therefore, and, as it seems to us, wisely and justly established that a combination of persons to commit a wrongful act with a view to injure another shall be an offence, though the act, if done by one would amount to no more than a civil wrong" (*e*).

It may be observed here, that under a statute of New York, whereby conspiracies are indictable whose object is "to commit any act injurious to trade or commerce," a combination of journeymen workmen of any trade or handicraft, to compel master workmen or other journeymen to obey rules established by the conspirators for the regulation of the price of labour, is within the prohibition (*f*).

"The man who owns an article of trade or commerce is not obliged to sell it for any particular price, nor is the mechanic obliged by law to labour for any particular price. He may say that he will not make coarse boots for less than one dollar per pair; but he has no right to say that no other mechanic shall make them for less. The cloth merchant may say that he will not sell his goods for less than so much per yard; but has no right to say, that any other merchant shall not sell for a less price. If one individual does not possess such a right over the conduct of another, no number of individuals can possess such a right. All combinations, therefore, to effect such an object, are injurious not only to the individuals particularly oppressed, but to the public at large" (*g*).

(*e*) Second and Final Report of the Royal Commission on Labour Laws.

(*f*) 14 Wendell, Rep. cited 2 Bishop, § 225.

(*g*) *Id.*

## CHAPTER V.

## REPORT OF THE ROYAL COMMISSION ON LABOUR LAWS.

SUCH was the state of the law on the several subjects mentioned in the preceding pages, when a Royal Commission was, in March, 1874, appointed "to inquire into the working of the Master and Servant Act, 1867, and of the Criminal Law Amendment Act (34 & 35 Vict. c. 32), and whether any, and if any, what amendment or alteration in the provisions of those acts, or either of them, is desirable; and also to inquire whether it is expedient to limit or define the law relating to conspiracy, either generally, or as affecting the relation of masters and workmen" (*a*). The Commissioners were required to make their report with as little delay as possible, in order to facilitate immediate legislation, should any be required.

It is a remarkable circumstance that, notwithstanding the objection to the then existing law was chiefly by the representatives of the working men, "decided opposition" was manifested to the inquiry.

The proceedings under the commission are thus stated by the Commissioners:—

"The several branches of our inquiry being in our opinion, though intimately connected, yet sufficiently distinct for us to consider them separately, we determined to consider first the Master and Servant Act, 1867, then the

(*a*) The Commissioners were Sir Alexander Cockburn, Chief Justice; Lord Winmarleigh; the Honourable E. P. Bouverie, M.P.; Russell Gurney, Q.C., Recorder of London, M.P.; Sir Montague Edward Smith, Member of the Judicial Committee

of the Privy Council (late Judge of the Common Pleas); J. A. Roebuck, Q.C., M.P.; Thomas Hughes, Q.C.; Gabriel Goldney, M.P.; and Alexander Macdonald, M.P.; with F. H. Bacon, Barrister-at-Law, as Secretary.

Criminal Law Amendment Act, 1871, and finally, the law of conspiracy; and in pursuance of such determination, having collected evidence as well documentary as oral on the subject of the Master and Servant Act, 1867, though we did not deem it desirable to make a separate report on that act, we deemed it proper to submit to your Majesty, with our first report the evidence so collected.

Several years having elapsed since the passing of the Master and Servant Act, we considered it our duty to obtain all the information we could procure as to the practical working of the act, and we took the necessary steps at the outset of our inquiry to procure evidence on this head. In the first place we caused application to be made to the clerks of justices of the peace of many of the petty sessional divisions of Great Britain and Ireland, at which, as we gathered from returns made to addresses of the honourable the House of Commons in the years 1873 and 1874, convictions under the act had taken place, for copies of the depositions in some of those cases, and we were duly supplied with them.

Considering that the discussion on the merits of the Master and Servant Act had been mainly brought about by the objections made against it by the representatives of the working men, and their complaints as to its operation, we deemed it highly desirable to have any facts brought to our attention on which such objections and complaints might be founded. We addressed ourselves to the secretary of the London Trade Union Congress Parliamentary Committee as representing the interests of the employed, as also to certain associations of employers of labour, who had volunteered to give evidence of the working of the act, inviting them to furnish us with evidence in relation to the act, and to any complaints they were prepared to advance either to its principle or to its administration.

In reply to such application, very full information as to the working of the act and as to the necessity for it has been afforded to us by many of the employers to whom we addressed ourselves; but we regret to say that, in con-



sequence of the decided opposition to the inquiry made by the representatives of the employed, with some few exceptions, we have been unable to obtain the same or similar information from the employed or their representatives. The secretary of the London Trades Union Congress Parliamentary Committee, which represents a very great number of the employed, in reply to the application addressed to him requesting him either himself to give, or to assist us to obtain, evidence of the working of the act, declined to assist the commission in its labours in any way, and only forwarded to us a copy of a resolution passed by that committee to the same effect. We were, however, in spite of this opposition, and chiefly through the influence of one of ourselves, Mr. Macdonald, able to induce two gentlemen, the one the secretary to a trades council in London, the other to a similar body in Glasgow, to appear and give evidence.

In addition to such evidence, we have examined some gentlemen of great experience in the administration of the laws in question, viz., two of the police magistrates of the metropolis, and a gentleman who had been a police magistrate in the Staffordshire potteries and a stipendiary magistrate at Sheffield for some years" (*b*).

The Commissioners having made a first report submitting the evidence taken on the Master and Servant Act, 1867, made a second and final report in February, 1875, submitting the conclusions at which they arrived on the several subjects under their consideration, together with the further evidence taken (*c*).

*As to the Master and Servant Act, 1867.*

After stating the scope of the inquiry on this head, and passing briefly in review the prior legislation on the rela-

(*b*) Second and Final Report of the Royal Commission on Labour Laws, 1875.

(*c*) Mr. Macdonald, one of the Commissioners, dissented from the

report. Where the report speaks of a "unanimous" opinion, it refers to all who signed it, and this solitary exception must be made.

tion of master and servant, leading up to the Master and Servant Act of 1867, and the provisions of that act, the report proceeded thus:—

“From the evidence that has been given before us, it appears that the complaints which are made to the act are to those parts of it which are embodied in the 4th and 9th sections, and the 14th section respectively.

The objections made against the 9th section are not so much to the redress awarded to a party complaining of breach of contract,—for it is not, and cannot be denied, that the man who without just cause breaks a contract he has entered into should make compensation to the opposite party,—as to the power of the magistrate to impose a fine under it, and to order imprisonment as a means of enforcing any order for the fulfilment of the contract, or for the payment of money which he has directed to be paid.

With reference to the objection to the power to imprison, it was said that, as the relation of employer and employed arises entirely out of contract, and as, in every other case of contract, the party complaining of a breach of it, and having damages awarded to him, and obtaining judgment, can only obtain an order enabling him to take the party liable to pay such damages in execution if the latter has means to pay and will not, the same rule should apply in the case of the workman failing to perform his contract, and ordered to pay money in compensation ; and that unless such a man had the means of payment no imprisonment should follow. ‘Why,’ it is asked, ‘if the breach of any other contract, however flagrant, leads to no imprisonment, should a breach of this particular contract be attended with that consequence?’

It is, in the first place, to be observed that, as regards orders for the fulfilment of the contract under the 9th section, the basis of the argument fails. The mode in which courts having jurisdiction to order specific performance enforce their authority in case of disobedience is by imprisonment. There is therefore nothing exceptional

in the application of this remedy in case of disobedience here.

As regards imprisonment in case of non-compliance with orders for payment of money, it must be admitted that the power to imprison is more or less anomalous.

The relation of master and servant in every form of it, and not the less in that form which relates to employers of labour and their artificers and workmen, arises out of contract. By the law of England a contract gives to the party with whom it is made a right to have the contract performed, and a breach of it by non-performance consequently becomes a wrong. But breach of contract involves no criminality. It is matter of civil remedy only, either by an action to recover damages, or by the order of a court of competent jurisdiction for the specific performance of the contract, where damages will not afford an adequate remedy, and the contract is still capable of being fulfilled; and in this respect there is no difference in principle between the contract of hiring and service in general and any other contract. Nevertheless, criminality has been made by the statute law of England to attach to the non-performance of the contract of service in respect of hirings of this particular class; and though by the Master and Servant Act of 1867 the criminal character of the breach of such a contract has, in cases falling under the 9th section, been taken away, imprisonment still remains, while on the non-payment of damages for the breach of any other contract it would not, in the absence of proof of means of payment, be available.

It must be admitted that this distinction is to a certain extent anomalous. If defensible it can only be so as an exceptional case, on the ground of necessity.

That the breach of such a contract on the part of a person in the employ of another may involve a serious, and where it is accompanied by the concurrent action of others a ruinous, loss to the employer, beyond the immediate loss arising from the loss of profit on the work con-



tracted for, by exposing him to liability for the breach of some contract into which he may have entered, while the loss to the workman will be limited to a temporary loss of employment, is obvious. It is equally so that the remedy by an action for damages by the employer by reason of any such loss, must be nugatory as against the workman, who, in the great majority of instances, has no resources beyond the wages he earns by his labour, nor has he property by seizure of which the damages awarded could be realized.

Under these circumstances it is obvious that an order for the specific performance of the contract, without the alternative of imprisonment on default of compliance would be wholly ineffectual, and that to take away the power of imprisonment on non-payment of compensation awarded for breach of contract, would be to enable the workman to break his contract with absolute impunity, while the means possessed by the master would, as a rule, insure to the workman, when the complaining party, the payment of damages awarded to him. At the same time it is to be observed that if this should not prove to be the case, the master is equally liable to imprisonment.

Nor is it enough to say that, in the case of ordinary contracts, if the party against whom damages are awarded for breach of contract should prove to be without means to satisfy the plaintiff, or should become insolvent and unable to pay, the latter remains without redress. In the great majority of cases, damages for which a verdict has been given, are in fact recovered. The cases in which the defendant proves unable to satisfy the judgment form the exception. Here it is the other way. Being, generally speaking, dependent on his labour alone, the workman disposed to leave his contract unfulfilled, can only be restrained from doing so by being made liable to imprisonment.

It was, no doubt, from such consideration that the older statute law made the breach of such a contract by

labourers, artificers, and others, employed in particular trades, an offence.

We entirely concur in the view that the mere breach of contract, such as is contemplated by the 9th section of the act, should be divested of all character of criminality, and we therefore recommend that the power of the magistrate to impose a fine under that section, where compensation cannot be assessed, should be taken away. If the complaining party has sustained or will sustain loss, compensation can be assessed; if he has not, he has no claim to damages, and the infliction of the fine can only operate by way of punishment, which pre-supposes a criminal act, and not a claim of damages arising from breach of contract.

Upon the same principle we are decidedly of opinion that, imprisonment being here admissible as a civil remedy only, a party ordered to be imprisoned should not be committed to the House of Correction, where, of course, the restraint is greater and the discipline far more strict, but to the prison, or department of a prison, to which persons imprisoned for debt are usually committed. But, for the reasons we have already given, we cannot advise that imprisonment in the last-mentioned form should be done away with. It is a remedy for civil wrong long known to the law, and though abolished practically as between judgment creditor and debtor by recent legislation, except under special circumstances, we think that, inasmuch as its abolition, in the particular class of cases we are dealing with, would afford impunity to men if disposed to break their contracts without just cause, often to the serious damage of their employers, it should in cases falling within the 9th section of the act be retained.

In another respect, it appears to us that the 4th and 9th sections might be amended with advantage. They are made to embrace cases of misuse, misdemeanor, misconduct, illtreatment, or injury to person or property. But whatever can properly be called misdemeanor belongs



to the domain of the criminal law, and should be left to the ordinary tribunals. In like manner the protection of person or property may well be left to the ordinary law. The jurisdiction here conferred should, in our opinion, be limited to matters arising specifically out of the contract entered into between the parties.

Greater difficulty arises with reference to the 14th section, against which the opposition to the act on the part of the working man is principally directed.

It is in the first place objected that, owing to the vagueness of the term 'aggravated character,' as applicable to the cases coming within the section, and to the total absence of any indication of the sense in which it was intended that those words should be understood, individual magistrates, acting on their own view of what constitutes aggravation, sometimes treat cases which ought to be dealt with under the 9th section as coming under the 14th, holding circumstances to be of an aggravated character which ought not to be so considered.

It appears that this complaint is not without foundation. The evidence shows that many such cases have occurred. We think it is to be regretted that the meaning of the legislature was not more clearly expressed, and we recommend that if this section of the act is to be retained, the limits within which the law is to take effect shall be more clearly defined, and the cases to which it is to be applied more precisely specified and made known.

A more serious difficulty presents itself in the question whether this section shall be retained or not, a question well deserving of attentive consideration.

The objection made against the 9th section, that the law is exceptional is here reproduced, and with additional force. It is urged that even if the provisions of the 9th section may be said to be in the nature of a civil remedy, here the proceeding, not having for its object the fulfilment of the contract, or compensation to the party aggrieved by its non-fulfilment, but simply the punish-



ment of the party for having broken his contract, is, more especially as the imprisonment may be accompanied with hard labour, unmistakably of a penal character, and is therefore altogether exceptional, being at variance with the general law, which, in other cases, leaves breach of contract to be dealt with by the remedies which the civil law affords, but does not make it an offence against the criminal law.

The position thus taken that this legislation is exceptional, is undeniable. But the question remains whether it is not justified and called for by the special circumstances and the necessity of the case.

In considering this question, three things must be assumed as essential to constitute the offence created by such a law. First, that the party breaking his contract does so wilfully, not only without just cause, but also without believing that he has just cause for so doing. Secondly, that he does so with the knowledge that by breaking his contract he will entail serious injury, loss, or mischief on the other contracting party. And thirdly, that he knows that he has no means of making compensation for the injury or loss so occasioned. The following instances may be put:—1st. Where a man knows that his employer has a heavy contract on hand which he is bound under penalties or legal liabilities to complete, and knows that his service is necessary to enable the employer to fulfil his engagement, his place not being capable of being immediately filled. 2nd. Where a man quits his service, knowing that serious injury to his employer's property will result from his doing so; as, for instance, if the manager of a smelting furnace were to quit his employment and cause the going out of the fires and cooling of the metal. 3rd. Where the necessary effect of abandoning the service is to expose the master's property to serious injury and loss. 4th. Where the purpose for which the service is abandoned is that of unduly coercing the master in the conduct of his business. On the part of the

employer we might have a breach of contract in dismissing a workman aggravated by attempts to prevent him from obtaining other employment.

In all these cases we have in the first place a wrongful act, wilfully and deliberately committed by the party breaking his contract. He is both legally and morally in the wrong; for, independently of legal obligation, common honesty, as well as justice, require that engagements once entered into, shall be honestly fulfilled. The mere breach of such an obligation should not, indeed, suffice to bring a person committing it within the reach of the penal law. But when to an act, wrongful in itself, the fact is added that serious injury and mischief are contemplated by the wrong-doer as about to result from it, and are, in fact, likely to result from it, it becomes a question whether for the prevention of the serious mischief which such a violation of contracts would be likely to occasion, a breach of contract accompanied by such circumstances of aggravation should not be brought within the scope of the penal law. There might be less reason for making such a breach of contract penal if pecuniary compensation commensurate to the injury caused could be recovered. But here, again, we must assume that in the vast majority of instances pecuniary compensation is out of the question; and the object of the law must therefore be rather to deter dishonest and unprincipled men from breaches of contract for which they are unable to atone by making compensation.

Nor is it sufficient to condemn a law to say it is exceptional. The exception may be founded on special and exceptional circumstances which call for the application of some special remedy. It is a mistake to suppose that this is the only contract the breach of which is made penal by the law. An instance, among others, and one immediately in point, is that of merchant seamen, who, having signed articles, in other words, entered into a contract to serve on board a particular ship, become amenable to the



penal law as offenders if they neglect to join, or, having joined, desert. They are liable to imprisonment, and under given circumstances to hard labour. The law is exceptional, but it is justified by the necessity of the case, and the serious mischief and inconvenience which would arise from such engagements being broken.

The real question is, whether the mischief to be prevented, arising from breaches of contract under the aggravated circumstances to which we have been referring, is so serious that the remedy by civil process must be deemed insufficient to deal with it, and the means of preventing it should be sought in the application of the penal law.

As regards cases of misdemeanor and injury to person or property, other than injury flowing simply from breach of contract, we are clearly of opinion that these cases may well be left to the ordinary law, especially as, in order to bring them within the 14th section, it is required that they should be of an aggravated character, and we therefore recommend that these cases, at all events, should be excluded from the operation of the act.

With reference to other cases of aggravation such as we have herein referred to, while we are sensible of the serious character of such breaches of contract, and are unanimous in thinking that these cases should be treated with greater severity than simple breaches of contract unattended by circumstances of aggravation, and are all agreed that if no sufficient means of preventing them can be found except under the criminal law, the principle of the enactment of the 14th section of the Master and Servant Act should be maintained, we are not agreed as to the necessity of applying the criminal law to such cases. Some of our number, feeling the force of the objection founded on the anomalous character of the law by which breach of contract is treated as a criminal offence, and thinking that a sufficient remedy can be found for the prevention of breach of contract, though of an aggravated character, by civil proceeding, are of opinion that it would



be better that it should be dealt with as falling within the civil rather than the criminal law. To those members of the commission it appears that it would be sufficient if power were given to the justice, in aggravated cases such as we have pointed out, to commit to prison for a longer time, not exceeding six months, in the event of the compensation he may award not being paid. Such imprisonment to be, as we have suggested in cases now falling within the 9th section, not in a penal but a civil prison, and without hard labour.

The other members of the commission, impressed with a sense of the serious mischief which may result from such aggravated breaches of contract, are of opinion that the law as it now exists under the 14th section, but subject to the provision hereinafter proposed, of having such cases tried by a jury at the option of the party accused, should be maintained. Being nearly equally divided on this point, we content ourselves with submitting both these views for consideration, leaving it to the wisdom of the legislature to decide between them."

After stating that besides the objections raised to the substantive enactments of the 4th, 9th, and 14th sections of the act, complaints were made as to its administration, and remarking that the act had been misconstrued and misunderstood in many points (*d*), the Report proceeded:—"Notwithstanding these complaints and difficulties we think it is abundantly proved by the evidence that a speedy remedy for breaches of contract, such as is provided by the summary procedure of the act, is absolutely necessary. It has been suggested that the jurisdiction over these cases should be transferred from justices of the peace to the county court (*e*); but, considering the extent of the circuits allotted to the judges of these courts—the only other

(*d*) See *ante*, p. 25.

(*e*) The suggestion was, as far as I am aware, only made, coupled with the idea of a more frequent sitting

of the county courts in most places, and an increase in the number of the judges.

tribunal suggested in substitution of the justices—and the intervals at which their courts are held, we think the transfer of jurisdiction to them would be highly inconvenient, and, except in places where there are stipendiary magistrates, it would be impossible to find any other tribunal before which these cases could be heard with equal cheapness and despatch.

We certainly think that in places where there are stipendiary magistrates, cases between master and servant arising under this act, or any other which may be substituted for it, should be determined by such stipendiary magistrates alone. Where there are no such magistrates, we think the jurisdiction, so far, at all events as regards cases arising under the 4th and 9th sections, should remain where it is.

A different consideration may arise with reference to cases coming under the 14th section, if it should be determined to maintain that section.

As the bill was originally introduced into the House of Commons, it was proposed to leave the administration of the criminal clause in the act to the quarter sessions in England, Wales, or Ireland, and to justices of quarter sessions in Scotland; and we are disposed to think that, involving, as it practically does, an offence punishable with three months' imprisonment, possibly with hard labour, it should be at the option of a party complained against under this section of the act to claim to be tried by a jury, in which case the jurisdiction of justices of the peace in petty sessions should be confined to binding over the defendant and remitting the case to the quarter sessions.

We have only one or two further observations to offer before concluding this part of our report.

During the course of our inquiry it was suggested that all contracts for service of any sort should be in writing, and that the act and the remedies provided by it should only apply to written and not to parol contracts;

but from the evidence it appeared clear that while by far the greater number of the contracts that had been the subject of proceedings under this act were parol contracts, a dispute on either side as to what the effect of the contract was scarcely ever arose. We think that the necessity of having written contracts would occasion unnecessary embarrassment and trouble in the dealings of employers and men, and we are not prepared to recommend any alteration in this respect."

After a reference to the question of the power to recover wages under the Act of 1867, the Commissioners said :—" Subject to the modifications we have suggested, and by which, if adopted, in all cases of simple breach of contract between employer and employed—leaving those of a more dishonest and reprehensible character to be dealt with as Parliament shall deem fit—the proceedings taken under the act will be altogether divested of a penal character, and assume that of a civil proceeding for specific performance or the recovery of damages, we beg to recommend that the Master and Servant Act shall, subject to such amendments, be continued, unless, indeed, it should be deemed more advisable to substitute for it one framed in clearer and more perspicuous language, which, looking to the confused language of the act and the difficulties which have arisen in its administration, we venture decidedly to recommend."

*Criminal Law Amendment Act, 1871.*

Passing to this subject, and giving a summary of the combination laws (*f*), and adverting to the opposite views of employers and employed on the Act of 1871, as exhibited in the evidence given on the commission (*g*), the report proceeded to deal with the statute on its merits, and to consider whether its repeal, or any modification of its provisions, was desirable:—

(*f*) See *ante*, pp. 29—41.

(*g*) See *ante*, pp. 49—51.



“ We may begin by observing at the outset that it does not appear to have occurred to any one to say that any of the acts made penal by this statute should be permitted. It seems impossible to deny that, while freedom should be given to men willing to enter into such a confederacy as a trade union, and to be bound by its rules, and to submit their individual will and freedom of action to the direction of the whole, the object of the law should be equally to secure perfect freedom of action to those who do not think proper to join such a confederacy, who choose to act for themselves, and who are desirous of accepting employment on other terms than those insisted on by the body. To permit a body of men to interfere with individual freedom in the matter of employment or labour by any of the means specified in the act, would be to allow the freedom which should be protected by law to be tyrannically and unjustly violated.

Nor is the interference with individual rights by the conduct thus made penal the only ground on which its prevention is called for ; public policy requires that in the relation of capital and labour, as in every other department of trade, free competition should be insured. The demands of a body of men acting in combination may be excessive. The remedy of the employer is to be found in the possible willingness of others to accept employment on more reasonable terms.

The true principles on which any legislation on this important matter should be based are stated with so much wisdom and justice in the report of the Commissioners of 1867, that, as it is now some years since that report was given to the public, we are led to reproduce it.

‘ (60.) With regard to the general question of the right of workmen to combine together for determining and stipulating with their employer the terms on which only they will consent to work for him, we think that, provided the combination be perfectly voluntary, and that full liberty be left to all other workmen to undertake the work which

the parties combining have refused, and that no obstruction be placed in the way of the employer resorting elsewhere in search of a supply of labour, there is no ground of justice or of policy for withholding such a right from the workmen. It cannot be doubted that a demand, backed by the resolution of a large body of workmen to decline work if the demand be not acceded to, comes with more force than that of an isolated workman; and we think that the workmen may reasonably claim to be allowed any advantage which they can derive from such concerted action, in bargaining with their employer from time to time as to the terms on which they will dispose of their labour.

‘(61.) In every bargain there is, more or less, a struggle between the buyer and the seller, the seller desiring to get as much as he can, and the buyer to pay as little as possible; but, as between the employer and the workman, there is in general this advantage on the side of the employer, that he can more easily wait—*i. e.*, can hold out longer than the workman. Moreover, the holding out singly of any one workman out of a large number does not much affect the employer: his works go on, though perhaps not in complete efficiency, until a further supply of labour is obtained; but the workman is generally in such a position that he must starve unless he either accept the terms offered, or is able speedily to find work elsewhere. He in general cannot wait. It is to redress this inequality that the power of combining is justified by the promoters of trades unions.

‘(62.) But upon the same principle, and for a precisely similar reason, we think that whilst conceding to such workmen as desire to exercise it an extended right to combine against their employers, especial care should be taken that an equal right be secured to those workmen who desire to keep aloof from the combination, to dispose of their labour with perfect freedom as they severally think fit. The power of working, and consequently the

value of a man's labour, varies in different individuals according to their strength, their skill, and their industry. The workmen who think it for their advantage to combine together in the disposal of their labour are no more justified in constraining any other workman, who does not desire such association, to combine with them—to bring his labour into common stock, as it were, with theirs—than an association of capitalists in constraining an individual capitalist to bring his capital into common stock with theirs; and it is the more important that the law should protect the non-unionist workman in his right freely to dispose of his labour as he thinks fit, because, standing alone, he is the less able to protect himself.

‘(63.) We do not attach any weight to an argument which is sometimes adduced in favour of the right of combination—viz., that such a power is required for protecting the workmen against the use by employers of dangerous machinery, for resisting the truck system, and for protecting women and children. These, we think, are matters to be regulated by law, so far as regulation is required; but it may well be argued that the practice of combination amongst workmen may be useful for the purpose of aiding the law in the repression of those practices; the existing law, whether sufficient in itself or otherwise, having been found in some cases difficult of enforcement.

‘(64.) All that, as it appears to us, the law has to do, over and above any protection that may be required for classes unable to protect themselves, such as women and children, is to secure a fair field for the unrestricted exercise of industrial enterprise. It should recognize the right in the labourer to dispose of his labour, the capitalist of his capital, and the employer of his productive powers, in whatever manner each of them, acting either individually or in association with others, may deem for his own interest; and that without reference to the question whether he is acting wisely for his own interest, or advantageously to the public, or the contrary. The interest of



the public will be best consulted by allowing each of these parties to do what he thinks best for himself, without further interference of the law than may be necessary to protect the rights of others.'

It cannot be denied that the violent and unjustifiable means made penal by the act have frequently been resorted to for the purpose of coercing both masters and individual workmen. The outrages of Sheffield and Manchester are still fresh in remembrance; and though the former went far beyond what the present act was intended to prevent, and came within the reach of the criminal law, certain forms of molestation, such as 'rattening,' in other words depriving a man of his tools, so as to take away from him the power of working, were then, as is well known, largely resorted to. Of 'picketing,' another form of molestation extensively used in times of strike, the Commissioners of 1867 give the following account:—

'(68.) It has been shown in evidence that these rights are most liable to be interfered with by what is commonly known as the system of 'picketing.' Picketing consists in posting members of the union at all the approaches to the works struck against, for the purpose of observing and reporting the workmen going to or coming from the works, and of using such influence as may be in their power to prevent the workmen from accepting work there.

'(69.) It is alleged that instructions are given to the pickets to confine themselves to a mere representation of the case of the union promoting the strike, and to use argument and persuasion only, without resorting to violence, intimidation, or undue coercion. But although such instructions may be given, it is hardly in human nature that the pickets, who are interested parties and who are suffering the privations incident to the strike, should always keep within the fair limits of representation and persuasion, when dealing with men whom they see about to undertake the work which they have refused, and

who may thus render the strike abortive. . Accordingly, experience shows, and the evidence before us leaves no doubt on our minds, that during the existence of a strike, workmen desirous to accept work are often subjected, through the agency of the pickets, to molestation, intimidation, and other modes of undue influence, and in effect are prevented from obtaining employment.

‘(70.) So far as relates to members of the union promoting the strike, the pickets cannot be necessary if the members are voluntarily concurring therein; so far as relates to workmen who are not members of the union, picketing implies in principle an interference with their right to dispose of their labour as they think fit, and is, therefore, without justification; and so far as relates to the employer, it is a violation of his right of free resort to the labour market for the supply of such labour as he requires.

‘(71.) The abuses to which the system of picketing leads were made evident in a remarkable manner in the case of the London tailors’ strike in the spring of the year 1867, when proceedings were instituted against some of the men who had taken an active part as pickets, or in organizing the system. The result of these proceedings was numerous committals by the metropolitan police magistrates, and finally the trial, on August 21, before Mr. Baron Bramwell in the Central Criminal Court, of several of the leaders of the operative tailors’ union, who were found guilty of conspiracy. The fact is, that pickets, whilst attempting to keep within the law as to outrage and intimidation, as the representatives of the better conducted unions state that the pickets are instructed to do, may almost as effectually work on the fears of the timid, either directly or through the female members of their families, and prevent them from exercising their freewill in the disposal of their labour, as if they threatened violence; and in this way the influence so exercised becomes a tyranny of the worst sort.’

Nor is it enough to say that the great majority of the trade unions would not think of sanctioning any such proceedings. The law is not made to restrain those who do right, but those who but for its restraint would be ready to do wrong. Experience has made us familiar with the instances in which, at the instigation or with the sanction of trades unions, attempts have been made to coerce masters, or other workmen, by the reprehensible means against which the act is directed. At all times the natural tendency of such combinations must be to seek to extend their power by drawing all others belonging to the same trade into their body. The greater their numbers, the greater their wealth and power, the less will be the ability of the employer to procure other workmen to resist them. It is notorious that in some of the more powerful unions the men refuse to work for masters who employ men who do not belong to the union, thus coercing the masters to employ only men belonging to the union, and compelling all who belong to the trade to become members of the union and submit to its dictation. This, though obviously operating in restraint of the freedom of trade, is no more than necessarily flows from the right, now fully admitted, of every man to dispose of his labour as he thinks proper, and to combine with others in order to obtain the best terms he can. But beyond this, the power of interfering with the perfect freedom of masters and other workmen ought not to be suffered to go; especially in the obnoxious forms of coercion against which the statute is directed. The danger is that with the tendency before referred to there must always be a desire to bring every one belonging to the particular trade under the government and control of the union, and though the better conducted unions would deprecate recourse to lawless means to effect that end, others may, nevertheless, especially in time of strikes, prove to be less scrupulous. That in times of strike, the forms of coercion against which the act is directed—violence, injury to person or property, threats of



personal injury, rattening, personal molestation, or as it is termed 'picketing,'—have been on past occasions largely resorted to, is notorious. And though a better state of feeling now exists, it cannot, we think, be doubted that, at a time of excitement, when men's passions are roused, such things, unless repressed by the law, are not unlikely to recur. Yet it is precisely at this time, when by combined action the men are seeking to bring the employer to their terms, that free competition in the labour market is essential to determine which side is in the right and ought to prevail.

That the conduct which is made penal by the act is an outrage on the rights of others, and ought to be repressed by law, does not seem to be seriously disputed; and the objections take a different shape from that of denying either the unlawful character of such acts, or claiming for them immunity from punishment. The objections urged appear to us, we must say, of a very shadowy and unsubstantial character.

The first is that the men feel aggrieved at the act being specially directed against them. 'If,' it is said, 'this is to be the law, let it be equally directed against every form in which men may be coerced into doing that which, if left to their own freewill, they would not do.'

Though this objection may be said to be a matter of sentiment rather than of appreciable grievance, we should not be unwilling to give effect to the desire to have the scope of the law made more general, if we could see any other instances of coercion to which such a law would be applicable. But no other instances of a tangible character present themselves in which attempts are made by violence, obstruction, or molestation, to prevent men from carrying on their business or calling. Nowhere but in the labour market is free competition sought to be prevented by unwarrantable means. A remedial law, intended to suppress a particular mischief, must direct the remedy to the quarter from which the mischief proceeds. Its terms and

operation should be large enough to embrace the mischief in every form and in every quarter in which it presents itself. But it seems idle to say that where the mischief arises among a particular class, it should not be repressed by legislation, because the sensitiveness of that class may feel hurt or offended at the law being apparently directed against it.

Again, it is said that this legislation is special and exceptional, being applicable to the case of employers and employed alone. If this be true, the answer is that the circumstances which have called the law into existence are also special and exceptional. A new form of interference with personal freedom has arisen. The power conceded by the law to large bodies of men to combine for the protection of their interests has led to an abuse of the power acquired by combination, by enabling them to interfere with other men's rights, and in a manner inconsistent with the public good. To meet this abuse, and the mischief resulting from it, being a new form of private wrong and of public evil, a law specially adapted to the circumstances has been found necessary. If the law is special so are the circumstances which have called for it. It may be exceptional, but it is not on that account the less necessary for the protection of private rights and of the public interest.

Another point, of which much has been made, is one which has reference more immediately to the matter of picketing. It is said that the act does not deal fairly as between the masters and the men ; that the masters are enabled by means of their so called 'black lists,' transmitted to one another, to exclude men who have given them offence, and that the workmen by picketing are only exercising a similar power. But we fail to see any analogy between the two cases. The masters in sending out their so called 'black lists,' are using no means to coerce those whom they address. They are doing no more than the unionists do, and are entitled to do, when

they determine among themselves not to work for a particular master, or with particular men, and take the necessary steps to inform other workmen of such their determination. What the act strikes at, whether in masters or men, is violence, intimidation, personal molestation. The interchange of black lists has nothing in common with the use of obnoxious means of that description.

Exception is next taken to the language of the act. It is said that intimidation is not sufficiently defined. In answer it is to be observed that the operation of the act is expressly confined to cases where the party, if brought before a justice of the peace, might be bound over to keep the peace—an application of magisterial authority not unfrequent—and of which it must be taken that a justice of the peace at all acquainted with law, would well understand the meaning, as applying to threats of personal injury or violence. We have no reason to think there has been any miscarriage of justice by reason of misapprehension as to the meaning of this part of the section.

It was alleged that the provision against picketing was too general; that picketing might sometimes be perfectly innocent, and on some occasions absolutely necessary for the protection of the union. That, for instance, when the union was on strike it would be necessary to keep watch to see that men receiving pay from it, as being on strike, did not take work, and thus defraud the body. But the answer is obvious. Such a case ought certainly not to be held to be within the act, which makes molestation penal only when used for the purpose of coercion.

Again, it is alleged that too loose a construction has been put on this part of the act, and that language addressed to a man for the purpose of persuading him has been held to be molestation with a view to coerce.

If, however, such a construction, which would undoubtedly be too large, should have been put on the act, the fault is not in the statute, the language of which is



sufficiently clear and precise. The fault has lain with those who have administered it, and who, in some instances, in their desire to give full effect to a salutary law, may have been led to strain it too far. The law on this subject was very clearly laid down by Mr. Justice Lush in the case of the Queen against Shepherd and others, which was tried at the Central Criminal Court, at the January sessions, 1869 (*h*). In that case the defendants were indicted for a conspiracy (founded on the act of 6 Geo. 4, c. 129, s. 3) to force workmen to leave their employment, the evidence being that the defendants merely waited outside the place where the workmen were employed, and tried to induce them not to work there, their conduct being peaceable, orderly, and civil. The learned judge, in summing up the case to the jury, pointed out the distinction between force put upon the will of another by violence, intimidation, or molestation, and persuasion used as a means of influencing the will, observing on the difference between the case then before him and one which he had tried at Leeds, in which the parties, charged under a similar indictment, had abused their fellow workmen, shouted and hooted at them, and had been otherwise violent in their conduct. Finally, he directed the jury, if they should be of opinion that the defendants had done no more than employ persuasion, to acquit them, which the jury accordingly did. Believing this to be the true exposition of the law, we cannot doubt that the ruling of the learned judge will be followed in any similar case."

After adverting to the exclusion, by the act, of magistrates connected with the particular trade, and that an impression appeared, notwithstanding, to prevail, "that especially in places where manufacturing business is carried on, and such cases arise, the magistrates being taken from the class to which the masters belong, have a natural leaning in their favour,"—the report concluded this branch of the

(*h*) Reported in Cox's Criminal Law Cases, xi., p. 325.

inquiry by saying, "Here, again, we think it would be an improvement if, as we have suggested in regard to the 14th section of the Master and Servant Act, 1867, an option were given to the party complained against, of taking the case, if so advised, to the quarter sessions, and having it there tried by a jury. With this exception we see no reason for a repeal or alteration of the act in question, which we believe to be useful and necessary for the purpose of securing the independence and rights of those whom it is intended to protect."

### *Law of Conspiracy.*

On this subject, after stating the general application of the law, and that the Commissioners were directed "to consider whether it is desirable to limit or define the law either generally or as affecting the relation of masters and workmen," they proceeded:

"The scope and purpose of this commission being, as we understand it, to inquire into the law affecting the relation of master and servant, it appears to us that any inquiry into the law of conspiracy can be necessary only so far as that relation is affected by the law in question. If it should appear desirable, as we recommend in a subsequent part of this report, to alter or modify that part of the law of conspiracy which is now applicable to the case of master and servant, we should think it preferable to make such case an exception to the general law rather than to disturb and unsettle the general law on account of its bearing and operation on the class of cases with which we have here to deal.

The primary question is, whether any change should be made in the law as it affects the relation of master and servant."

After advertng to the objections made to the existing law, and the misconceptions on the subject, and that the law had, and, as it seemed to the Commissioners, wisely and justly, established that a combination of persons to

commit a wrongful act with a view to injure another, shall be an offence, though the act, if done by one, would amount to no more than a civil wrong (*i*), the report proceeded :

“ We see no reason to question the propriety of the law as thus established, nor have we any reason to believe that in its general application it operates otherwise than beneficially. Whether there are cases in which, on a correct view of the law, parties may be held liable on a charge of conspiracy, where the end is not wrongful, or the means to be used criminal, is a matter into which we do not think it necessary to inquire, as, if such be the law, which we greatly doubt, we are prepared, as we shall state further on, to recommend that, as respects the contract of hiring and service, and the relation of master and servant, the law should be amended.

We have next to consider whether there is any ground for saying that the application of the law of conspiracy to any combination, having for its object to interfere wrongfully with rights acquired, or sought to be acquired under a contract of hiring and service, is either unjust or inexpedient.

Bearing in mind that to bring a case within the law of conspiracy there must be, as in all other offences, a wrongful purpose, in violation of the rights of others, is there anything peculiar in this particular class of cases which should entitle it to exceptional favour? For it must be remembered that the application of the law of conspiracy to cases having reference to the relation of master and servant is not exceptional, but results from the general law ; and that those who ask for a modification of the law do so, not because they object to it as applied to the rest of the subjects of the realm, but in the special interest of the unionist workman as likely to fall within it.

Let us consider what are the sort of cases in which a combination to interfere wrongfully with rights relating to hiring and service would fall under the head of conspiracy.

(*i*) See *ante*, p. 45.



Suppose that workmen, in the service of a given employer, were, with the view of injuring a master who had displeased them, to agree with one another, pending the service, to quit their employment in a body, thereby rendering him unable to fulfil his engagements. The end would be wrongful, as would also be the means, as each man would induce the other to break his contract, and each so breaking it would be individually liable to an action. Is there any reason why the law should be altered to afford immunity to persons thus acting? Or let us suppose that workmen should in like manner combine to break their contracts by abruptly leaving their service, with a view to any of the purposes which legislative exposition has, in the Criminal Law Amendment Act, declared to be wrongful, viz., in order to coerce a master to carry on his business in a particular way, or to dismiss, or not to dismiss, a particular workman, or, as the alternative, to subject him to injury or inconvenience resulting from the stoppage of his works, as was occasioned in the gas stokers' case. Or suppose that a trade union, or other body of men, for any of the foregoing purposes should combine to induce the workmen of a particular master to break their engagements and leave him; or by misrepresentation, or any other wrongful means, to prevent workmen not belonging to their own body from taking service under him, so as to stop him from carrying on his business. Or suppose a similar confederacy entered into to prevent by wrongful means a workman from getting work, and so ruining him. The question is, whether in cases in which a combination is formed by wrongful action to effect wrongful ends, a law applicable to the rest of the community should be relaxed in favour of a class who, in times of struggle between employed and employers, will be peculiarly exposed to the temptation to avail themselves of the formidable power which union and numbers arm them with to interfere with the rights of others.

Nor must it be forgotten that this is a matter in

which the public interest is deeply involved. The breach of contract by the gas stokers threatened London with darkness. The supply of water might in like manner be stopped. And there are many other cases in which the supply of things essential to the public well-being might in a moment be cut off by an unlawful combination of the workmen, or other servants of public companies or contractors, to break their engagements. The railway traffic on a great line might be suddenly stopped by the concerted action of the persons employed on it.

It may be said that men in the employ of persons contracting with the public enter into no engagement with the public, and are under no obligation towards it. This is true, but the very serious consequences just referred to, as possibly resulting from the combinations we have been speaking of, appear to us to afford an additional reason for not altering a law by which confederacies of this kind, entered into for no legitimate purpose and fraught with mischievous consequences, may be kept in check.

The great interest which the public has in the due performance of contracts entered into for its accommodation makes it not unreasonable that men who enter into the service of those who contract with it, should be held responsible criminally for combining to break contracts where public mischief or inconvenience must result from a concerted and abrupt breach of their engagements.

To the objection that, under an indictment for conspiracy, men may be more severely punished for the offences punishable under the Criminal Law Amendment Act, than if proceeded against under that act, the answer we think is, that the same offences as are there made subject to particular penalties when committed by individuals become far more serious when committed by persons acting in combination, and therefore may properly be visited with severer punishment.

There is a greater difficulty in dealing with the third head of objection, namely, that by the application of the

law of conspiracy men are made criminally liable for acts which are no longer penal under the statute law, and which ought not to be penally prohibited at all. It is urged that by the rulings of the judges in one or two cases recently tried, the proviso in 1st section of the Criminal Law Amendment Act has been so construed as to deprive it of any practical value, and to leave men still liable to be indicted by the application of the general law of conspiracy for acts in respect of which the legislature, it is said, meant to afford immunity from punishment.

As an instance of this, Mr. Baron Pollock, in a case of conspiracy tried before him at the summer assizes at Leeds in 1874, is reported to have directed the jury that if several workmen combined not to work with a particular person, and refused to work for an employer unless he dismissed that workman, this would amount to a conspiracy at common law, a doctrine which would of course equally apply to masters agreeing not to employ a particular workman, unless he left a particular society or union. We abstain from expressing any opinion as to the correctness of the law as reported to have been thus laid down; we content ourselves with saying that, assuming the law to be as thus stated, we are of opinion that it requires amendment. Labour being free, we think that men ought to be at perfect liberty, when not under contract, to agree among themselves not to work for a particular master, or with a particular workman who may be obnoxious to them; and that masters should in like manner be free to agree with one another, not to employ particular men. There can be no possible doubt of the right of each individual, not bound by contract, in the exercise of his own free will, to refuse to employ, or to work for or with anyone to whom he objects. There being nothing wrongful in such refusal, we fail to see how the agreement of several to the same effect, unaccompanied by any other circumstances of coercion, can be constituted a crime.



We, are, therefore, of opinion that the immunity contained in the proviso in the Criminal Law Amendment Act, in the sense in which it has been construed, is too limited, and we also think it is expressed in too general terms, and that a more definite enactment is required.

We therefore recommend that legislative provision should be made to the effect that no person shall be liable to be indicted for conspiracy, by reason only of the object of the combination being to force or control the action or will of any master or workman, in any matter relating to the mode of carrying on his business or work, unless the means of coercion to be resorted to shall be one of those mentioned in the Criminal Law Amendment Act, or be the wilfully breaking or procuring others to break any contract of hiring and service, and unless the object of such coercion shall be one of the purposes set forth in that act.

Whilst proposing thus to limit the cases in which men shall be liable to be indicted, on the ground that the object is to interfere with the will of others in the conduct of their business or work, we have thought it right to add to the wrongful means set forth in the Criminal Law Amendment Act, that of wilful breaches of contract. It appears to us that when men combine to coerce by such means they may properly be made subject to the law of conspiracy, since both the end and the means are, in our opinion, for the reasons given in a former part of our report, wrongful.

It is right to point out that the enactment we propose is not intended to give, and should be so framed as not to afford, immunity to persons who may conspire to injure another in cases where the means resorted to for the purpose would constitute criminal conspiracy independently of any intention to coerce;—for instance, if persons combine to defame a man, or to induce him by false representation to do an act to his prejudice, they would still be liable to be indicted for conspiracy, although one of the

objects might be to coerce ; for apart from that object, the means being criminal or wrongful, the offence, without it, would be complete.

With this exception we are not prepared to recommend any alteration in the law of conspiracy, either in general or in its application to combinations coming within the scope of the laws relating to labour.

The result, then, of the best consideration we have been able to give to the matters submitted to us is as follows :—

As regards the Master and Servant Act, we recommend that in all simple breaches of contract the summary jurisdiction provided by the act should be divested of everything of a penal character, and be entirely of a civil nature. That the distinction between simple breach of contract and breach accompanied by circumstances of aggravation should be maintained, and that if the latter shall remain subject to the same penalties as at present, a party complained against should have the option of taking the case to the quarter sessions to be tried by a jury ; and that if the latter shall be made the subject of civil remedy only, the maximum of imprisonment shall be increased to six months.

That as regards the Criminal Law Amendment Act, the statute should remain unaltered, with the exception of the same provision as we propose with reference to cases arising under the 14th section of the Master and Servant Act, of having the case tried by a jury at the option of the party accused.

As regards the law of conspiracy, we recommend that the alteration we have suggested should be made, but we are not prepared to recommend any other alteration in the law."

## CHAPTER VI.

## THE LEGISLATION OF 1875.

WITHIN four months of the presentation of the Report under the Royal Commission on Labour Laws, Mr. Cross, the Secretary of State for the Home Department, introduced into the House of Commons two bills, the one an "Employers and Workmen Bill," and the other a "Conspiracy and Protection of Property Bill." The general tenor of the measures and the speech of the minister who introduced them, led to their very favourable reception and consideration. Nevertheless the bills underwent considerable discussion and alteration in their different stages. They received the royal assent on the 13th of August, and came into operation on the 1st September, 1875.

The government measures, while adopting to the full extent the tenor of the report of the Royal Commissioners, that in all simple breaches of contract the summary jurisdiction in case of master and servant should be divested of everything of a penal character, and be entirely of a civil nature, went in some other respects beyond the recommendations of the Commissioners.

Repealing the Act of 1867, as suggested in the report, and many other provisions, the government recognized the practical importance of placing all provisions relating to the civil branch of the question in a separate act from that containing provisions of a penal character.

Giving a general definition of workmen for all the objects of legislation, so as to include all persons, other than domestic or menial servants, engaged in manual labour under an express or implied contract of service or work, and treating the county courts as the primary proper tribunal, but as inadequate, from the infrequency of its



sittings in many places, and its distance from the suitors, the Employers and Workmen Bill gave a concurrent civil jurisdiction, where the claim does not exceed ten pounds, to courts of summary jurisdiction constituted of police magistrates, or of two justices of the peace sitting at a place appointed for holding petty sessions. The bill was subsequently altered so as to take away the jurisdiction of ordinary magistrates in petty sessions, where police or stipendiary magistrates act, and also in the city of London.

The common law jurisdiction and powers of the county courts, and of these courts of summary jurisdiction, are assimilated in relation to any dispute between an employer and a workman arising out of or incidental to their relation as such. The logical sequence of giving a civil jurisdiction to courts of summary jurisdiction, by reason of the inadequacy of the county courts to meet the public wants, is that the mode of enforcing the orders of both courts should be the same. Accordingly this has been effected. As regards orders for payment of a sum as wages, damages, or otherwise, they are enforceable as ordinary debts in the county courts, that is to say, by distress and sale of goods, or, under the Debtors Act, 1869, by committal to prison for a term not exceeding six weeks, or until payment of the sum due, but only upon proof to the satisfaction of the court, of the debtor having or having had the means to pay (*a*).

(*a*) See more fully *post*, Chap. VII. With the views held and publicly expressed by me, I of course look with much satisfaction on the Report of the Royal Commission, and on the general features of the government measure stated in the text. The deviation from the Report, adverted to in the text, is in full accord with my own notion.

In stating my views to the Commissioners in 1874, in regard to Lord Elcho's Act, I said: "I think

any criminal part of the act, that is to say, any provisions of a criminal nature, should be embodied in a separate act, and that, as far as possible, it would be very desirable that the enforcement of these contracts for specific performance or payment of damages should be in a civil court. Unfortunately the local courts, the county courts, do not sit often enough, and a delay of ten days is required, and it is necessary that the process in these cases

The Commissioners do not appear to have contemplated this description of limitation, but to have proposed that on failure to pay the amount of compensation, all the provisions of the Summary Jurisdiction Acts applicable to orders of magistrates for the payment of a sum of money, should apply to the enforcement of orders of compensation (*b*).

should be speedy : forty-eight hours in a magistrate's court is sufficient . . . . . I take so strong a view about the mere damages, that I should say whatever the remedy is in a civil court for the recovery of damages for the breach of an ordinary contract, let the same apply here." (First Report of the Royal Commission on Labour Laws—Minutes of Evidence.) And again,—“ I should like to see the cases which are not dealt with in a penal manner, but by means of an order either to pay money or to perform the contract, completely separated from cases of a penal and therefore of a criminal kind, which have to be dealt with by fine or direct imprisonment. It is very desirable to separate the two questions by different acts of parliament. Of course, an act providing for the penal cases might embrace a great deal which is now scattered through other acts of parliament. Another matter, distinct from that, is that the present act is extremely difficult to work in consequence of its referring, in the third section, to a number of acts in the schedule, and stating that cases within the meaning of those enactments, and no others, shall be within the act, instead of the act itself defining with care, as I think might be done without any very great difficulty, the cases to which

it is to be applied. It is really extremely embarrassing to any magistrates, whether lawyers or ordinary magistrates, to find out what cases are or are not at present within the purview of the act. You might get rid of a great many provisions which are obscure and really now unnecessary, by merging them all in one general act defining these contracts." (Second and Final Report of the Royal Commission on Labour Laws — Minutes of Evidence.) The Commissioners, in their Report, said, “ Mr. Davis . . . . . recommended that the act should be cut down to a mere civil act, and the criminal provisions of it embodied in a separate act, and that all proceedings under the act for enforcement of contracts for specific performance or payment of damages, should be, if possible, in a civil court, but admitted that as the county court did not sit often enough, and cases in those courts required ten days' notice, while forty-eight hours was sufficient in a magistrate's court, and as the process was more costly in the county court, the jurisdiction in all places where there was not a stipendiary must still remain with the justices of the peace." All these points referred to were provided for by the Bills of 1875.

(*b*) It would have involved a



There is an omission of some importance in the new act which it is difficult to account for.

The summary jurisdiction previous to Lord Elcho's Act recognized the great importance of permitting workmen to sue agents, managers and foremen for wages.

The act 4 Geo. 4, c. 34, recited that "masters, mistresses, or employers reside at considerable distances from the parishes or places where their business is carried on, or are occasionally absent for long periods of time, either beyond the seas, or at considerable distances from such parishes or places, and during such residence or occasional absences intrust their business to the management and superintendence of stewards, agents, bailiffs, foremen, or managers, whereby such servants, artificers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, labourers, or other persons and apprentices, are or may be subjected to great difficulties and hardships, and put to great expense in recovering their wages," and provided the obvious remedy, by making the agent, &c., responsible.

A corresponding provision was introduced into Lord Elcho's Act, by including the steward, agent, bailiff, foreman, manager or factor under the word employer.

Notwithstanding these patent facts, there is now no provision of the kind, and it is clear that no such representative of an absent employer can be proceeded against under ordinary circumstances, for the general rule of law must prevail, that known agents are not responsible for the contracts entered into by them for their principals.

little more trouble, but would have more completely separated the civil from the criminal aspect of these cases of employer and employed if the procedure were independent of Jervis' Act relating to summary convictions and orders. When the working man finds the blue-coated police constable visiting him at his workshop, or home, to serve the

summons, he will think that Parliament has after all somewhat missed its object to put him entirely on the footing of an ordinary debtor. Jervis' Acts should be confined, as far as possible in their non-criminal process, to "State claims" (to borrow a term from American jurists), such as rates and taxes and public dues, and sanitary and educational matters.



However, the Lord Chancellor's rules made under the act will to some extent remedy the otherwise great defect, for the rules allow of service at a defendant's house, or place of dwelling, or place of business (*c*).

The question of apprentices has been dealt with in the new acts in a very satisfactory direction. The report under the Royal Commission made no reference to the subject, although contracts of apprenticeship were within the Master and Servant Act, 1867, and although the returns made from magistrates' courts to the Commissioners included cases of apprentices.

Imprisonment appears to have been applied to breaches of contract by apprentices almost as frequently under the Act of 1867 as previously, although it is difficult to understand (apart from any misconstruction of the Act of 1867) on what principle a naughty tiresome boy or lad, who breaks an involuntary contract, should be dealt with more stringently by an imprisonment than an adult wilfully breaking his voluntary engagements. Probably those who have made the distinction would desire to justify it on the ground that discipline is involved in the one case more than in the other; but, even in that view, imprisonment, as an instrument of discipline, seems opposed to the modern, and so far successful, system of dealing with juvenile offenders.

Be this as it may, it was urged before the Commissioners, that power should be given to the court dealing with apprentices, not only to require the attendance of parents and guardians, but to exercise jurisdiction over them by enforcing the performance of their contracts when covenanting parties to the indentures (*d*).

(*c*) See the Rules (*post*).

(*d*) Being asked my opinion whether the relation between master and apprentice and between master and workman ought to be dealt with under the same act, I said: "Yes, I think they ought; but I think the

third person in the contract of apprenticeship ought to be brought within it. That is generally the father. The parent or next friend who covenants for the services of the apprentice ought to be within it. I felt a great difficulty in deal-

The government adopted this view, and it was unanimously confirmed by the legislature.

A "court of summary jurisdiction" may not only adjudicate on disputes between a master and an apprentice and make an order directing the apprentice to perform his duties under the apprenticeship, but if there is any person liable, under the instrument of apprenticeship, for the good conduct of the apprentice, he may be summoned; and the court may, in addition to or in substitution for an

ing with apprentices. . . . .  
Owing to the goodness of trade at Sheffield in 1872 and 1873, the cases of the apprentices I am quite satisfied have been more numerous, and for this reason: in regard to almost all the apprentices in Sheffield, and I believe elsewhere, the system is very different from what it used to be. Instead of a premium [by the father], wages are paid [by the master], but of a smaller amount [than in the case of an adult], and at the end of the first or second year the apprentice could, if free, earn higher wages if trade is brisk. Very often a father has been really the person who has seduced his son from his employment, and put him elsewhere, to get higher wages. The boy is brought before me. I have always insisted on the parent, or the person who has been a party to the indenture, being present in court, and have adjourned the case often for his presence, so as to hear what he had to say; and I have often had the case of a boy who has been placed in a difficulty between on the one hand obeying the parent and on the other hand his master, and I have endeavoured always in those cases to try and make an arrangement, in the absence of any power to enforce it as against the

father, by explaining to the father that he was liable to an action by the master, and so on, and adjourning the case, and trying to get the boy to find some third person as surety for the performance of the contract, and in that way effecting an arrangement of some kind, so as to enforce the contract, at the same time without dealing harshly with the boy." (First Report of the Royal Commission on Labour Laws—Minutes of Evidence.) The evidence of Mr. Henry Bleckley was confirmatory of this view. Speaking, as a magistrate, of apprentices in the fustian cutting trade, he said: "They are generally bound for short times, say for two or three years, and in about six months, when they have learnt the trade, they could earn, of course if they were free, twice as much as they can during their apprenticeship; and there are a very great number of such persons brought up in Warrington before the magistrates to enforce the contract of apprenticeship. . . . Their parents will often send them away to another shop where instead of getting 4s. or 5s. they may get 6s. or 7s. a week. . . . We always ask for the father or mother to be in court." (*Id.*) ..

order against the apprentice, order that person to pay damages for any breach of the contract of apprenticeship, or may take security, if he is willing to give it, for the future performance of the contract by the apprentice.

On a question of considerable importance a difference of opinion will no doubt exist as to the correctness of the view taken by the legislature, namely, as to the propriety of enforcing performance of uncompleted contracts for personal service as distinguished from the payment of damages for their breach.

The capability and propriety of thus enforcing contracts of this description was suggested to Lord Elcho, and the suggestion was laid by him before the committee of the House of Commons in 1866, of which he was chairman, and was adopted (*e*). The committee unanimously resolved, "That the court shall have power, where such a course is deemed advisable, to order the defendant to fulfil contract, and also, if necessary, to compel him to find security that he will do so" (*f*).

This recommendation was carried into effect by the Act of 1867. An alternative mode given by that act of dealing with complaints, was power to direct the fulfilment of the contract of service, with a direction to the party complained against to find forthwith good and

(*e*) The suggestion was made under these circumstances: As stipendiary magistrate at Stoke-upon-Trent I had felt the want of some power to order the performance of contracts for the future, instead of sending workmen to prison for past breaches. In the absence of such a power I frequently, with beneficial results, adjourned cases for a fortnight or a month on the defendant entering into a recognizance with a surety for his appearance, with the understanding that if he returned to his work no further proceedings

would be taken. I thought a power to attain this end directly, instead of indirectly, would be of great advantage to all parties. I availed myself of an opportunity of mentioning my views, and subsequently put them into writing, as already stated (see *ante*, p. 16).

(*f*) See *ante*, p. 15. The committee comprised several lawyers of distinction, including Sir Robert Collier, the then Solicitor-General. It also included a member of the present cabinet.



sufficient security, by recognizance or bond, with or without sureties, for such fulfilment (*g*).

How did this power work? In many places it does not appear to have been tested; not by reason of any distaste for the principle involved, but from an inclination to adhere to old paths—fine and imprisonment. In several manufacturing centres, one of them Sheffield (probably the most important of any district on any question relating to employer and employed), the enforcement of contracts under Lord Elcho's Act was adopted almost exclusively of any other remedy, and continued to be applied down to the moment the new legislation took effect, with the greatest advantage to employers, who do not want damages but the work done (*h*), and also with general satisfaction to the employed, who, when held to have been in the wrong (and in most cases feeling themselves to be in the wrong), prefer performance to a money payment of fine or damages.

How did the Royal Commission deal with the question? Attention was specially called to it, and to the effect of Lord Elcho's Act (*i*); and so far from condemning the principle, the conclusion arrived at by the Commissioners

(*g*) See *ante*, p. 19.

(*h*) See *ante*, p. 24, note (*f*).

(*i*) In giving my opinion on the working of Lord Elcho's Act, I said: "I mainly put in force the provision of the act enabling the magistrates to call upon the person summoned to perform his contract; in fact a rough specific performance of the contract by means of the defendant (generally of course the defendant was the employed) undertaking by recognizance to perform his contract, with or without a surety. . . . The man would perhaps say at the moment, 'Well, I cannot find a surety, I am a stranger.' Then I have said, 'Will you undertake

yourself then to perform your contract?' and, generally, I have said to the employer, 'This man is a stranger, take his word, take his own recognizance in 5*l.* that he will perform his contract; if he does not do it, then he will be brought up and sent to prison.' . . . I have always found that the employers cared little about the money, about getting actual 'compensation,' and that they wanted labour. . . . I find the power to call upon a man to find a friend as surety an admirable power. It is always a good test, and there is very little difficulty about it: it is remarkable with what facility men come forward to

was that that act should be amended or another substituted, and that the proceedings in all cases of simple breach of contract between employer and employed should assume that of a civil proceeding FOR SPECIFIC PERFORMANCE OR THE RECOVERY OF DAMAGES.

On the other hand, two objections were raised to an order for performance; the one that it is impracticable, and the other that it involves the power of imprisonment to enforce it, and that, therefore, it has the aspect of a criminal provision.

In support of the first objection, the practice of the Court of Chancery was cited, which does not in general decree specific performance of contracts for personal services, on the grounds, either that the duties are of too complicated and delicate a kind to be carried out against the will, or because the recovery of damages by action is a sufficient compensation for any breach.

The answer to these objections is, that an ordinary breach of contract of labour consists either in an absence from the place of work, or in simply not working up materials within a reasonable time, and the style or quality of work does not in fact form any part of the complaint, and that no complicated or delicate questions arise. Numerous illustrations of the kind of breaches complained of in practice are disclosed in the evidence given on the Labour Laws Commission. Cases of wrongfully leaving the place of work are by far the most numerous, and are continually referred to.

In all those cases, whether the absence is a deliberate act or merely (as in the majority of cases actually occurring in practice) giving way to temptation of drink or amuse-

answer for one another. I have had strangers come forward in the court and say, 'I will be bound for the man.' I have thanked them and said, 'You are doing him and me a favour;' and I think it is fairly

carried out generally; but there have been sureties who have got themselves into scrapes." (First Report of the Royal Commission on Labour Laws—Notes of Evidence.)

ment, to require performance is really nothing more than to require attendance at the shop or other place of work.

A metropolitan police magistrate, speaking of breaches of contract in the cabinet-making trade, said: "They nearly all arise in this way: the custom of the trade is that a man takes out a job, as it is said, for instance a sideboard, to make, and he is to have 5*l.*, say, for making it, and he begins by drawing 1*l.* or 30*s.*, and then he goes on and works away, and when he has nearly finished the sideboard, he finds he has drawn all the money, but still has some work to do on the sideboard; then, naturally enough, in a great many cases, if he is a man of not very strong principles, he goes off and takes another job, leaving the sideboard unfinished, having drawn all the money. That is a very common class of cases applying to all the trade" (*k*).

What difficulty in making an order to finish the job? The member (*l*) of a well-known firm of locomotive engineers described contracts for erecting the engines: "We let, for instance, in the case of a locomotive engine, the work to be done by the piece; every part almost is done by the piece, and the putting together—what we call erecting—is done by a number of men joining together to take the work for 45*l.* or 50*l.* a-piece."

In the case of a joint refusal or neglect, what difficulty in ordering performance of such a contract? (*m*).

(*k*) First Report of the Royal Commission on Labour Laws — Minutes of Evidence (Mr. Hannay).

(*l*) Mr. Robinson, a magistrate for Staffordshire, president of the National Federation of Associated Employers of Labour, and a partner in the firm of Sharp, Stewart & Co., locomotive engineers, Manchester.

(*m*) In the face of such illustrations, it excites a smile to find an argument used against enforcing labour contracts, that it is impossible to force an actor on the stage to apply;

against his will, his best powers to play Richard the Third. (See the debates in the House of Commons on the Employers and Workmen Bill, 1875.) That "You can take a horse to water but cannot make him drink," is a favourite illustration with objectors to orders for specific performance of workmen's contracts. The answer may be, "True, but you can take the horse back to his work." In the great majority of these cases the object is to get the workman from the drinking place back to his place of work.



As regards the power to recover damages by legal proceedings, it is unnecessary to point out that the power to obtain them is not equivalent to the actual performance of any contract, and least of all in the case of a contract of labour. To say to an employer, "Do not ask for performance, wait until the full damage is sustained, and then proceed to recover the amount by law," sounds like a mockery. Apart from other objections, it often happens that the damages actually incurred from the breach are too remote in the eye of the law to allow of their being claimed(*n*).

The objection that imprisonment is a necessary accompaniment of the power to enforce performance of contracts, and that, *therefore*, it has the aspect of a criminal measure, is not well founded; for although "it is obvious that an order for the specific performance of the contract, without the alternative of imprisonment on default of compliance, would be wholly ineffectual"(*o*), "the mode in which courts having jurisdiction to order specific performance, enforce their authority in case of disobedience, is by imprisonment. There is, therefore, nothing exceptional in the application of this remedy in case of disobedience here"(*p*).

(*n*) See *post*, Chapter VII.

(*o*) See the Second and Final Report of the Royal Commission on Labour Laws, *ante*, p. 54.

(*p*) *Ibid.*, *ante*, p. 52. "*Sir M. E. Smith*.—You would retain the power to imprison in the event of the man not specifically performing his contract when ordered, but you would prefer the ordinary civil remedy to enforce the claim of compensation? *J. E. Davis*.—Certainly. It would be absolutely necessary to retain the power of imprisonment to enforce performance, but it would be simply the power exercised at present by the High Court of Chancery. In Scotland, some fifty years ago, a great question was raised as to

whether what is termed the process of 'caution' could be legitimately applied to the non-performance of a contract for labour. The judges were divided, but the majority held that you could apply it to that system—that is practically a specific performance of a contract for labour. The ordinary rule of equity in England has been, that where damages can be an equivalent, then you have no right to ask for specific performance; but jurists rather differ even upon that, as to whether the rule is founded upon any true principle." (*Id.* Minutes of Evidence.) Mr. Henry Crompton did me the honour of saying, "I hold precisely the same opinion as was

A striking illustration of this occurs in the county courts. Under its equitable jurisdiction as hitherto existing, imprisonment is expressly recognized to enforce compliance with orders of the court.

It is to be observed that, although security for performance, where performance was ordered, was required under Lord Elcho's Act, it is by no means an essential part of the principle. Nevertheless a recognizance, especially with a surety, tended materially to secure the performance of the order, and at the same time obviated any direct imprisonment, the order, if disobeyed, being enforced in the first instance by levying the amount.

The legislation of 1875 has halted between the conflicting views above adverted to. While retaining a power of ordering performance of a labour contract, the court can only exercise the power with the consent of both parties—the defendant as well as the complainant,—and further it is essential that there should be one or more sureties for the performance. The security or any sum paid by a surety can be enforced as a debt, that is to say, by a summons and an order, and then by execution against the goods, or by a limited order of imprisonment on proof of the means of payment, as in the case of orders for damages (*q*).

How far, under these new conditions,—namely, the assent of the defendant, his ability to find a surety, and the limited power of enforcing the security,—orders for performance will be found a mode of ensuring adherence to labour contracts, must be left to future experience. It is clear, however, that this scheme is not what the Commis-

given by Mr. Davis on the subject." . . . "*Sir M. E. Smith.*—You would suggest, as I understand you, that the power should be simply to give damages or to order specific performance? *Mr. Crompton.*—Quite so." (Second

and Final Report of the Commission—Minutes of Evidence).

(*q*) The bill as introduced by the government provided for the enforcement of orders of performance by imprisonment, and did not make the finding a surety essential.

sioners meant when they recommended proceedings for specific performance and for recovery of damages as the two alternative remedies in cases of simple breach of contract (*r*).

Before leaving the consideration of the Employers and Workmen Act, 1875, it should be noticed that one effect of the new legislation is to make no distinction between breaches of contract committed in the honest, although mistaken, belief that there was just cause for so doing, and breaches committed wilfully, not only without just cause, but also without the belief that there was just cause; nor even between cases of honest belief and cases of a wilful and deliberate intention to do a wrong, unless combined with the ingredients about to be noticed in the Conspiracy and Protection of Property Act.

This change is remarkable. Previous to 1867 there was no summary jurisdiction by magistrates over *bonâ fide* disputes (*s*). The act of that year first gave that jurisdiction, but by its latitude enabled magistrates, if they thought fit, to draw a wide distinction in dealing with motives; now the distinction is altogether gone in cases under the Employers and Workmen Act.

The power, of very great importance, given by the act to the Lord Chancellor to make rules for carrying into effect the jurisdiction given to a court of summary jurisdiction, has been promptly exercised by the issue of Rules and Forms apparently well adapted for their object, and calculated to make the court essentially one of civil procedure.

Passing from the civil jurisdiction given by the Employers and Workmen Act to the penal provisions of the Conspiracy and Protection of Property Act, 1875, it will

(*r*) It is only due to myself to say that when urging orders for performance and compensation as adequate to meet cases of simple breach of contract, I did not contemplate

the power of the court as to performance being limited in the way it has been by the legislature.

(*s*) See *ante*, p. 6.



be well to notice first that part of the act which is to be regarded as a substitution for the 14th section of the Master and Servant Act, 1867 (*t*). It has been already seen that it was the too wide application and injudicious exercise of the power given by that section to magistrates to impose direct imprisonment for any injury inflicted on the person or property of the complainant of an aggravated character, or for any misconduct, misdemeanor, or ill-treatment of an aggravated character, that was the chief cause of the dissatisfaction expressed by workmen for that act (*u*).

The Royal Commissioners were unanimous in recommending that if the principle of the 14th section was to be retained, the limits within which the law was to take effect should be more clearly defined, and the cases to which it was to be applied should be more precisely specified and made known (*v*); and as regards cases of misdemeanor and injury to the person or property, "other than injury flowing simply from breach of contract," they were clearly of opinion that those cases might be left to the ordinary law (*x*).

With reference to cases of aggravation, where the person breaking his contract does so without believing that he has just cause for so doing, with the knowledge that the breach will entail serious injury, loss, or mischief on the other contracting party (*y*), the Commissioners were unanimous in thinking that those cases should be treated with greater severity than simple breaches of contract unattended by circumstances of aggravation; but they were nearly equally divided on the point whether those offences should be dealt with under the criminal law or only by civil proceeding (*z*).

The legislature has dealt with this question by making it

(*t*) See *ante*, p. 20.

(*u*) See *ante*, p. 25.

(*v*) See *ante*, p. 56.

(*x*) See *ante*, p. 59.

(*y*) See the instances put by the Commissioners in the Report, *ante*, p. 57.

(*z*) See *ante*, p. 60.

a criminal offence, punishable either by a pecuniary penalty not exceeding twenty pounds, or by three months' imprisonment, with or without hard labour, if any person "wilfully and maliciously breaks a contract of service or of hiring, knowing, or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury"(a). After considerable discussion in the House of Commons, the same punishment is imposed on a person "wilfully and maliciously breaking a contract of service with a municipal authority, or company, or contractor, having the duty of supplying a place with gas or water, knowing, or having reasonable cause to believe, that the probable consequences will be to deprive the inhabitants wholly or to a great extent of their supply of gas or water."

The precise effect of these provisions must to some extent depend on the meaning of the word "maliciously," applied to the breach of a contract (b). It seems clear from the context and from an interpretation clause introduced into the bill, that some force was intended to be contained in "maliciously," distinguished from "wilfully." Lord Penzance thought the former word ought to be struck out, but the government insisted on its retention. Deferring a technical investigation of this point to a subsequent chapter, it is noticed here as bearing on the inquiry how far the legislature has carried out or departed from the

(a) It is to be observed that neither this nor any other provision of the Conspiracy and Protection of Property Act, 1875, is confined to "workmen" as defined by the Employers and Workmen Act, 1875.

(b) I am not aware of any other instance in which the legislature or the judges or expounders of the

common law speak of "*maliciously breaking a contract.*" I do not remember when in pleaders' chambers seeing it introduced into a declaration or other pleading; but there have been great changes in ideas, and in words used to express them, since those remote days.

report of the Commissioners. While it is evident that the views of those Commissioners who thought all aggravated cases might be treated as civil breaches have not been followed, yet, on the other hand, if the common acceptation of the word "maliciously" is to be applied, the legislature has not carried out the opinion of the other Commissioners, by including in the category of offences many (probably the most numerous), where, without any malicious design, "the necessary effect of abandoning the service is to expose the master's property to serious injury and loss" (c). Neither is any provision made for the case put, "where a man knows that his employer has a heavy contract on hand which he is bound under penalties or legal liabilities to complete, and knows that his service is necessary to enable the employer to fulfil his engagement, his place not being capable of being immediately filled." Even if done "maliciously," the probable consequence of the wrongful act is not to expose valuable property to destruction or serious injury within the meaning of the new provision.

It follows that, as regards such instances, the unanimous opinion of the Commissioners that these cases should be treated with greater severity than simple breaches of contract unattended by circumstances of aggravation, has been either disregarded or intentionally over-ridden by the legislature, which has at the same time purposely withdrawn the protection arising from the power heretofore existing under Lord Elcho's Act, of requiring performance of the contract, and which the Commissioners advised, as has been seen, should under any circumstances be retained.

A desirable amendment of the law has been effected in a matter not within the scope of the Labour Laws Commission, by making the master of a servant or apprentice legally liable to provide food, clothing, *medical aid*, or lodging, and, on refusing or neglecting to provide either, liable to fine or imprisonment if the health of the servant

(c) See *ante*, p. 57.



or apprentice is, or is likely to be, *seriously* or permanently injured—extensions, on the points indicated by italics, of a previous provision (*d*).

Leaving the penal provisions for breaches of contract, and proceeding to the subject of the Criminal Law Amendment Act of 1871, it is to be observed that the new bill as first introduced by the government carried out the precise recommendations of the Royal Commissioners; that is to say, it left the former act unrepealed and unaltered, except in giving an option to the party complained against of having the charge tried by a jury.

Eventually the government assented to the repeal of the act and substituted another provision to meet intimidation or annoyance by violence or otherwise. Getting rid of the words “molest” and “coerce,”—words, or the construction given, or supposed to have been given, to them by judges and juries, apparently very distasteful to trade unions by reason of their restraint,—it makes the doing various specified acts, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, punishable by a penalty not exceeding 20*l.*, or by imprisonment not exceeding three months with or without hard labour.

The objection made to the prohibition of “picketing” (*e*) has been removed, or, at least, intended to be removed; for although the offence is defined in the same terms as in the Criminal Law Amendment Act, 1871, that is to say, as watching or besetting the home or place where the person sought to be compelled resides, or works, or carries on business, or happens to be, or the approach to such house or place, it is now provided that “attending at or near the house or place where a person resides, or works, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting.”

(*d*) See *post*, Chapter VIII.

(*e*) See *ante*, p. 66.

Another modification of the Criminal Law Amendment Act consists in giving the court of summary jurisdiction power to impose a fine instead of imprisonment. But probably the most important alteration of this branch of the law consists in making it of general application.

Under the Criminal Law Amendment Act, 1871, as well put by Sir Montague Smith, a man need not have been a servant to commit the offences comprised in it, but the relation of master and servant must have existed between some people before the offence could happen (*f*). The substituted provisions apply to *every person* who does any of the specified acts with a view to compel *any other person* to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing.

There can be no doubt that this application of the law to all persons was adopted purposely. The question was discussed before the Royal Commission, exception being taken by those representing the views of union workmen to legislation of this kind being confined to trade disputes (*g*). It was said that this legislation is special and exceptional, being applicable to the case of employers and

(*f*) Second and Final Report of the Royal Commission on Labour Laws—Minutes of Evidence, p. 101. See the provisions of the Criminal Law Amendment Act, 1871, stated *ante*, pp. 40, 41.

(*g*) Without adopting them myself, I may refer to the views expressed by Mr. Crompton, which I apprehend the legislature acted upon, notwithstanding the report of the Royal Commission. "With respect to the Criminal Law Amendment Act, one objection which I understand the workmen to take is that the act, although general in form, is practically limited to offences committed by the working classes in the course of trade disputes, and they think that any law dealing

with violence should be general in its application as well as in its form. I may be wrong, but I do not know myself any law dealing with violence that is special in its application, and I think that the test of whether a law is just or not is whether the penalty falls impartially on all persons \* \* \* whether they commit those crimes or not habitually. \* \* \* If I could see any real occasion for it, I do not know that I should not admit an exception to the principle; but I can see no reason why any law should not be framed generally which relates to violence or to intimidation." (Second and Final Report of the Royal Commission on Labour Laws—Minutes of Evidence.)

employed alone. The report of the Royal Commission said, "If this be true, the answer is that the circumstances which have called the law into existence are also special and exceptional" (*h*).

The legislature having so far adopted the objectors' view, as to make the provisions of general application, it is the duty of courts of summary jurisdiction to give effect to the clear intention of the legislature, by dealing with cases of intimidation, or annoyance by violence or otherwise, not merely in reference to trade disputes, but also in matters arising independently of them (*i*).

Without attempting to anticipate the precise effect of this extension of the law, it may be observed that questions arising under it may be complicated in consequence of the absence of any clause excepting cases already capable of being dealt with summarily under any other provisions.

Under the new jurisdiction persons charged have the right of trial by jury, a privilege which, of course, they ought not to be deprived of in any case falling within the terms of the new law. Confining the court of summary jurisdiction, so far as parties are concerned, to *appointed* petty sessions (*h*), power is given, in accordance with the recommendation contained in the report under the Labour

(*h*) See the further observations of the Commission, *ante*, p. 70.

(*i*) Will three half-drunken men accosting an acquaintance in a street or road, and following him in a disorderly manner, with a view to compel him to go with them to a public-house and drink, be within the new law? In former days zealous, but indiscreet, partisans at parliamentary elections might have fallen under such a law, by not drawing the line sufficiently clear between persuasion and compulsion; but in these days milder arts pre-

vail, or at least offences are not committed openly in streets or roads. It may be that the new law is capable of being occasionally applied to a certain class of attempted or intended robberies from the person by threats, not amounting to felonious assaults, or to crimes otherwise punishable directly. If so, will unionist workmen be grateful for a concession to their views, the result of which is to place their occasional excesses on the same footing?

(*h*) See *post*, p. 109.



Laws Commission (*l*), to a person accused of any of the offences above mentioned, in addition to a right of appeal to quarter sessions, to object to the summary jurisdiction, and in that event the case is to be dealt with in all respects as if the accused were charged with an indictable offence.

It is remarkable that no costs of prosecution are allowed to prosecutors of indictments under these circumstances.

Making the fact of whether a particular offence is indictable or not, depend on the will of the accused person, is a novelty in our jurisprudence, and, to say the least, productive of considerable practical inconvenience (*m*); and both the novelty and inconvenience might have been easily avoided, and, at the same time, the recommendation of the Commissioners more effectually carried out.

The act introduces another novelty, worthy of notice, not for the purpose of censure, but as denoting an innovation in established rules as to the inadmissibility, as witnesses, of persons accused of criminal offences. Although the general law does not allow persons charged in any criminal proceeding with any indictable offence, or any offence punishable on summary conviction, to give evidence for or against himself, or a husband or wife in such cases to give evidence for or against each other, this law was broken into by the Master and Servant Act, 1867, which rendered parties to the contract of service, and their husbands and wives, competent witnesses for all the purposes of that act; and subsequently by the Licensing Act, 1872, in like manner, rendering licensed persons and their wives competent witnesses in summary proceedings (*n*). The legislation of 1875 has gone much further,

(*l*) See *ante*, pp. 61, 73.

(*m*) See *post*, Chapter VIII.

(*n*) As I am to some extent responsible for suggesting the past innovations, and therefore cognizant of their origin, I may state how they arose. Being impressed with the un-

equal effect of the law which drew the distinction (and no doubt properly, in interpreting the statute on which the question depended) between *orders* and *convictions* by magistrates, and seeing how very hard it was in practice that only

and extends the competency to parties to the contract of service, and to their husbands and wives, on the trial of indictments for any of the offences hitherto mentioned, except those offences substituted for the provisions of the Criminal Law Amendment Act, 1871 (*o*).

one side in master and servant cases should be competent to give legal evidence of the facts, I recommended to Lord Elcho, in 1866, that provision should be made to this effect, and the recommendation was placed before the Committee of the House of Commons. A similar suggestion was made by one of the witnesses examined, but the Committee were "not prepared themselves to recommend the adoption of such a principle, involving as it does departure from the law of evidence in such cases, as now settled." (See *ante*, p. 16). The legislature, however, adopted the suggestion to a greater extent than was first proposed; for the notion was to carry it out by giving power to the magistrate to make an order to pay money, or to perform the contract, and under the general law defendants would be competent witnesses. The legislature, however, went much further (see *ante*, p. 21). Having observed the still greater hardship attendant on the exclusion of testimony in complaints against innkeepers and beersellers, where the defendant's wife was the principal or only person capable of explaining, or justifying, or denying the acts alleged in support of the charge, I availed myself in 1868 of the opportunity afforded by a public occasion of calling the attention of the licensed victuallers to this, and as I thought, and still

think, another real grievance, as distinguished from imaginary wrongs. A member of the then and present government was present, and spoke to me afterwards on the subject. In 1872, although the Licensing Bill made no provision for admitting the parties as witnesses in the cases referred to, and the government resisted any change, a clause was moved, and, on a division, carried against the government. I have elsewhere said, "I hope to see the day when defendants in all cases of summary convictions shall be competent, but not compellable, witnesses." (Second and Final Report of the Royal Commission on Labour Laws—Minutes of Evidence.) The legislation of 1875 has widened the question. One thing seems to be clear, that the present disjointed condition of things, under which neither the father nor mother of a child is permitted to give evidence in answer to a school board summons for a half-crown fine, for not sending the child to school, can long endure. The whole question must be considered upon general principles at no very distant day.

(*o*) The reason for the distinction, which was evidently intentional, is not very clear, for it is difficult to say why a man, or his wife, who hides the tools of another, should not be a competent witness, as fully as a man or the wife of a man who maliciously breaks a contract of

If a charge of any of these offences reaches the stage of a trial, the appearance of the accused, or his wife, in the witness box will be a fact of considerable interest in legal history. It is even possible, although other considerations will prevent the experiment except under very peculiar circumstances, that the accused may be put on his oath, not only on his own behalf, but by the prosecutor, and further, that the wife of the accused may be called as a witness against him.

Proceeding to notice the mode in which the legislature has dealt with the remaining subject of consideration by the Royal Commission,—the law of conspiracy,—it will be remembered that the Commissioners, while recommending a more definite enactment, extending the then existing immunity from the law of conspiracy, expressed an opinion that a combination to interfere with the will of others in the conduct of their business or work, by means of wilfully breaking, or procuring others to break, any contract of service, should be still subject to the law of conspiracy (*p*).

The legislature has disregarded this recommendation by enacting that an agreement or combination to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen, shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime.

Coupled with the repeal of the Criminal Law Amendment Act of 1871, it is not improbable that cases of total irresponsibility to the criminal law may occur, not contemplated by the legislature, although foreshadowed by some observations and illustrations given in the report of the Royal Commission. For many reasons, however, it is undesirable to dwell on or to specify such contingencies.

Having now seen the general bearings and scope of the Labour Laws of 1875, the subsequent chapters will be

service. It would be wrong, however, to consider the question as one merely of privilege.  
(*p*) See *ante*, p. 78.



devoted to the procedure of the courts under the new law, treating the subject practically for the use of those participating in enforcing or administering the law, whether judicially, ministerially, or in advocating the interests of persons within the field of its operation.

The present chapter might have commented with greater minuteness on the alterations effected during the progress of the bills through the House of Commons, and on the range of debate and discussion called forth, but such a commentary would be a vain effort in regard to modifications made with a view not so much to attain a strictly logical system of labour laws, but with the hope of satisfying a very large class of persons by a series of concessions to their opinions (*q*).

If these concessions have the desired effect of securing confidence in and adherence to the law, and in its administration on most important subjects, the object attained will be well purchased at a sacrifice of unity and consistency of principle.

Whatever may be the direct advantages or disadvantages of particular features of these acts, one general indirect result may be anticipated although not contemplated. It is probable, for many reasons, that the courts of summary jurisdiction will not be as readily resorted to as heretofore (*r*).

This apparent indication of want of success may lead to the best possible results,—greater mutual confidence and

(*q*) No stronger illustration of this could be given than the absence in the debate of any reference to the truck laws. What a comment does the restriction, under penal provisions, put on labour contracts by the Truck Act (1 & 2 Will. 4, c. 37), offer to the workman's cry against special legislation for labour contracts! No one thinks at present of repealing that special penal legislation. I again cite, without adopting,

Mr. Crompton's words—"The working classes are actually placed in a better position than the rest of our countrymen. Mr. Cross preferred actual justice to a logical consistency which caused injustice." (*The Fortnightly Review*, September, 1875.)

(*r*) The impossibility to obtain an order for performance of contract without the assent of the defendant, and the necessity of a

regard, and reliance on personal character and good faith, rather than on the invocation of the law for the performance of duties and obligations.

The chapter may fittingly conclude with the Prime Minister's observations on the Labour Laws of 1875. In the aspirations contained in them all will concur.

“In considering the greatest modern political question, the condition of the people, we found that there was one question we had to encounter, without a happy solution of which all our efforts must in their effects be limited, partial, and perhaps vain. I allude to those laws which long existed, which statesmen have long considered with a conviction, some of their inconvenience and danger, some of their essentially baneful influence—those laws which regulate the relations between the employers and the employed. It had been said and considered that the difficulties of dealing with this legislation were so great, that any hope of success was impossible. I will not go into these difficulties. I will only say—for I wish the words I utter to be brief and condensed—her Majesty's government at least dared to meet those difficulties, and conquered them. The legislation of labour, if I may so call it, in this session of parliament, has terminated that

second distinct proceeding to enforce payment of damages, and the then great uncertainty of their ultimate recovery, must inevitably have an effect in deterring applications to the court of summary civil jurisdiction. The impediment to a resort to criminal proceedings, where an offence of that character has been committed, is the prospect that on any charge made the defendant will elect to be tried by indictment. The complainant will not like the idea of a prosecution conducted entirely at his own cost, and therefore will avoid that probable contingency by not in-

curring the preliminary cost and loss of time of an information and summons. On the other hand, an accused person will doubtless exercise his privilege of objecting to the justices' jurisdiction, for one or other of the following reasons: (1) an honest desire to be tried by a jury; (2) the belief that the complainant will, in consequence, decline to prosecute; (3) to avoid the complainant's costs in the court of summary jurisdiction and immediate fine or imprisonment; (4) to vex and harass the complainant, towards whom he has already done an intentional wrong.

distinction between classes which has been so long deprecated, and which, if it exists, renders any union in society scarcely possible. For the first time in the history of this country the employers and the employed sit under equal laws; no one can now be imprisoned for a breach of contract, while adequate civil remedies have been furnished for that concession. The law of conspiracy has been dealt with in such a manner that no longer can it be said that an aggregate body of men can be convicted of a crime of which if one had been tried individually by law it would be recognized that he was innocent. I am hopeful that these great results will be regarded as of the present session of parliament" (s).

(s) Mr. Disraeli's speech at the Mansion House, 4th August, 1875, as reported in the "Times."



## CHAPTER VII.

PROCEDURE UNDER THE EMPLOYERS AND WORKMEN  
ACT, 1875.§ 1. *The Tribunal for hearing and determining "Disputes."*

BEFORE dealing with the procedure under the Employers and Workmen Act, 1875, it is desirable to say something of the tribunal and its jurisdiction.

So far as relates to employers and workmen, there are two tribunals referred to in the act for hearing and determining "disputes" between them—THE COUNTY COURT, and THE COURT OF SUMMARY JURISDICTION established by the act (*a*). The county court jurisdiction is not created by the act, but is the result of the jurisdiction conferred on the county courts on their establishment (and subsequently extended), in respect of claims to damages for breaches of contract or other wrongs, including causes of action arising out of the relation of employer and workmen (*b*).

Recognizing the common law right of action, and the right as already existing in the county courts of enforcing that right, the Employers and Workmen Act, 1875, simply enlarges the powers of the county courts in relation to any dispute between an employer and a workman, and

(*a*) As applied to Scotland, the expression "county court" means the ordinary sheriff court of the county, and as applied to Ireland means civil bill court.

(*b*) Although this county court jurisdiction is in one sense only concurrent with the jurisdiction of the

higher courts of the country, yet for practical purposes (applicable to all but very exceptional cases), I treat the county courts and the courts of summary jurisdiction as exclusive of any other tribunal for cases arising under the Employers and Workmen Act, 1875.

creates another limited concurrent jurisdiction as regards such matters (*c*).

The new courts of summary jurisdiction cannot, however, exercise any jurisdiction where the amount claimed exceeds 10*l.*, nor can it make an order for payment exceeding that sum exclusive of the costs incurred in the case, nor, under the power to be hereafter noticed (*d*), require security to an amount exceeding 10*l.* from any defendant or his surety (*e*). Further, it seems to be clear that a court of summary jurisdiction can only hear and determine cases between the immediate parties to the contract, that is to say, the workman and the employer; and that it cannot adjudicate on claims by or against the personal representatives of either, or claims of third parties, except to enforce undertakings for performance. So also (although that must be immaterial in all but very exceptional cases) the complaint must be made within six calendar months from the time when the matter of such complaint arose (*f*).

The county court jurisdiction is not so limited, for its ordinary jurisdiction up to 50*l.* applies of course to claims for damages under the act. On the other hand, the jurisdiction given by the act in disputes between masters and apprentices, hereinafter mentioned, is confined to the courts of summary jurisdiction.

It is well to observe in this place that although the act provides that proceedings for disputes within the scope of the acts *may* be heard in a court of summary jurisdiction, thus leaving any other court open, the repeal of the Act of 1867, and of the previous provisions incorporated in it, has the effect of making the new courts and the county courts the only available tribunals in the great majority

(*c*) The full title of the act well marks the distinction, "An Act to *enlarge* the powers of county courts in respect of disputes between employers and workmen, and to *give* other courts a limited civil jurisdic-

tion in respect of such disputes."

(*d*) See *post*, p. 132.

(*e*) 38 & 39 Vict. c. 90, s. 4.

(*f*) See the Summary Jurisdiction Act, 11 & 12 Vict. c. 43, s. 11.

of cases. Nevertheless, there are many provisions regulating employer and employed in various trades and manufactures still unrepealed, which, although hitherto regarded as having been merged in the general powers of the Act of 1867 and prior acts, may, it is not improbable, be revived, and these powers exercised for the determination of cases under particular circumstances. For this and for other reasons the still unrepealed legislation is included in an Appendix of “Labour Laws” to this volume.

With these observations, the remainder of this division of the chapter is devoted to a statement of the constitution of the new tribunal.

*Courts of Summary Jurisdiction.*—The Employers and Workmen Act, 1875, enacts that “a dispute between an employer and workman may be heard and determined by a court of summary jurisdiction, and such court for the purposes of this act shall be deemed to be a court of civil jurisdiction” (*g*).

The court of summary jurisdiction is thus constituted:—

- (1) As respects the city of London, the Lord Mayor or any alderman sitting at the Mansion House or Guildhall justice room.
- (2) As respects any police court division in the metropolitan police district, any metropolitan police magistrate sitting at a police court for that division (*h*).
- (3) As respects any city, town, liberty, borough, place or district for which a stipendiary magistrate is for the time being acting, such stipendiary magistrate sitting at a police court or other place appointed in that behalf.

(*g*) 38 & 39 Vict. c. 90, s. 4.

(*h*) This does not restrict the jurisdiction of the Lord Mayor or any alderman of the city of London, or of any metropolitan police or

stipendiary magistrate in respect of any act or jurisdiction which may now be done or exercised by him out of court (38 & 39 Vict. c. 90, s. 10).



(4) Elsewhere any justice or justices of the peace to whom jurisdiction is given by the Summary Jurisdiction Act (*i*).

“Provided that as respects any case within the cognizance of such justice or justices as last aforesaid, a complaint under this act shall be heard and determined, and an order for imprisonment made by two or more justices of the peace in petty sessions sitting at some place appointed for holding petty sessions” (*k*).

Very important distinctions exist between the constitution of the new courts and the former tribunals for determining cases between employers and workmen. Under the Act of 1867 the jurisdiction of stipendiary magistrates and of two ordinary justices of the peace was concurrent, but now it is exclusive. In the large towns and populous districts, where stipendiary magistrates are appointed, whether under the Municipal Corporations Act or under the Stipendiary Magistrates Act, or under special acts, their jurisdiction is now exclusive (*l*). County or borough justices have no jurisdiction in these cases in such places.

A still more important distinction, however, consists in the courts where the county or borough justices have

(*i*) The Summary Jurisdiction Act means 11 & 12 Vict. c. 43, inclusive of any acts amending it; in Scotland the 7 Will. 4 & 1 Vict. c. 41, and any act amending it; in Ireland, as regards the police district of Dublin metropolis, the acts regulating the powers and duties of justices of the peace for such district; and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any amending acts (38 & 39 Vict. c. 90, ss. 10, 14, 15).

(*k*) In Scotland “the court of summary jurisdiction” means the small debt court of the sheriff of the county; in Ireland it means any justice of the peace or other magis-

trate to whom jurisdiction is given by the Summary Jurisdiction Act; and (in Ireland) the court of summary jurisdiction, where hearing and determining complaints under the act, in the police district of Dublin metropolis, is required to be constituted of one or more of the divisional justices of that district; and elsewhere in Ireland of two or more justices of the peace sitting at a place appointed for holding petty sessions (38 & 39 Vict. c. 90, ss. 14, 15).

(*l*) Their deputies, duly appointed with the sanction of the Home Secretary under 32 & 33 Vict. c. 34, can exercise the powers in question.

jurisdiction. Previously, two justices sitting together constituted the ordinary courts of summary jurisdiction in master and servant cases; now, courts of summary jurisdiction to hear complaints under the new act, when heard before justices of the peace, must be composed of two or more justices in petty sessions, *at some place appointed for holding petty sessions*. This seems to point to petty sessions within petty sessional divisions constituted under 9 Geo. 4, c. 43, and subsequent acts, and the places appointed under 12 & 13 Vict. c. 18, or 31 Vict. c. 22 (*m*).

The forms accompanying the Lord Chancellor's orders under the act, confirm this view by using the words, *Petty Sessions District of*, &c. (*n*).

It must be borne in mind that these divisional courts of petty sessions are not *courts of record*, and therefore the new courts of summary jurisdiction in England are not, like the county courts, courts of record, although the clerk keeps a plaint book in his office.

*Rules for carrying into effect the Jurisdiction given to Courts of Summary Jurisdiction.*]—The act gives power to the Lord Chancellor from time to time to make, and when made to rescind, alter and add to, rules for carrying into effect the jurisdiction given by the act to a court of summary jurisdiction, and, in particular, for the purpose of regulating the costs of any proceedings (*o*).

This power was at once exercised by the issue of rules, dated 13th August, 1875. To these rules are appended a schedule of forms and another of costs (*p*). The rules

(*m*) As to boroughs having a separate commission of the peace, see 12 & 13 Vict. c. 18, s. 1. See the various provisions given in Oke's Magisterial Synopsis, Introduction.

V. THE CONSTITUTION AND MANAGEMENT OF BENCHES OF JUSTICES.

(*n*) See the Rules and Forms, *post*.

(*o*) 38 & 39 Vict. c. 90, s. 9. In Scotland "the Court of Session, by act of sederunt," is substituted for the Lord Chancellor; and in Ireland, the Lord Chancellor of Ireland. As to costs, see *post*.

(*p*) See the Rules and Forms, *post*.

and forms carry out the intention of the legislature to make the courts of summary jurisdiction civil courts. They assimilate the procedure and practice of the courts as closely as possible to that of the county courts.

It is essential, however, to bear in mind, in dealing with and applying the rules, that they cannot enlarge or alter the jurisdiction of the courts of summary jurisdiction. Any attempt so to affect the jurisdiction as provided by the act itself, would make the rules void, as *ultra vires*.

It is scarcely necessary to observe that, with regard to the county courts, judges of those courts, appointed by the Lord Chancellor, have power, independently of the new act, to make rules and orders (*q*), so that it was unnecessary to make provision for them. No county court rules have been issued having special reference to the Employers and Workmen Act, 1875. The existing county court rules are applicable for many purposes. Still rules seem desirable as to a speedy hearing of cases, and for some other purposes.

---

### § 2. *The Jurisdiction as to Persons and Things.*

It is desirable in the next place to see what persons and what matters are subject to be dealt with under the act. Postponing the consideration of the jurisdiction in respect of apprentices, the present division of this chapter is confined to employers and workmen.

*Employers.*]—The persons are “employers” and “workmen.” The employers are those employers who have a contract with a workman, and, therefore, the definition of “workman” and of “contract” govern “employer.”

*Workmen.*]—“Workman” “means any person who being a labourer, servant in husbandry, journeyman, artificer,

(*q*) See the County Courts Act, 1856, s. 32.



handicraftsman, miner, or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer," but does not include a domestic or menial servant(*r*), nor does the act apply to seamen(*s*).

It is the numerous class who serve by placing at the service of their employers their labour, whether rude or skilled, according to the branch of productive industry or manufacture to which they belong, including labourers in husbandry, miners, quarrymen and the like, and to manufacturers, artificers, and others employed in the various forms of creative industry that this legislation has been directed(*t*).

*Contract.*.]—The "contract" entered into, or which is worked under, with an employer, is within the meaning of the act, "whether the contract be made before or after the passing of this act, be express or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour"(*u*).

It seems, although not expressed with precision, that the contract must be a contract of service or a contract personally to execute some work or labour. There may be contracts of service, although exceptional, not involving the personal execution of "any work or labour," and there may be contracts personally to execute work or labour not amounting to a contract of service. It is not, however, every contract of service, or every contract to personally execute any work or labour, that is within the act; for the contract must be by a workman with an employer,

(*r*) 38 & 39 Vict. c. 90, s. 10.

(*s*) *Id.* s. 13.

(*t*) See the Report of the Royal Commission on Labour Laws, cited *ante*, p. 3. Mr. Rupert Kettle, judge of county courts, who, as is well known, has done great public

service as arbitrator between employer and employed, has used an expression which, it appears to me, admirably concentrates and defines this class by two words, "HAND WORKERS."

(*u*) 38 & 39 Vict. c. 90, s. 10.

and the "workman" must be either a labourer, or a servant in husbandry, or a journeyman, or an artificer, or a handicraftsman, or a miner, or a person otherwise engaged in manual labour; and this last apparently sweeping expression must be, to some extent, restrained by the previous definition of "workman" in accordance with well-established principles of construction. It seems clear, therefore, that neither domestic nor menial servants, nor probably "seamen," would be included in the word "workman," even without their express exception. It is also manifestly intended that the contract of service, or contract personally to execute any work or labour, should have relation to the workman's ordinary or occasional vocation, as defined; that is to say, that the contract should be in that particular character. Thus, a person whose ordinary avocation is that of "handicraftsman" or "miner," in the summer time may be employed in harvesting, and thus, for the time being, he would, as "labourer" or "servant in husbandry," be within the act in respect of such occasional service; but a "journeyman" in a trade, involving manual labour, under an occasional contract, outside his ordinary vocation, to serve, say, for example, as a copying clerk, or in any other character of that description, would not be within the act in respect of that occasional service; for, although answering the description of, as ordinarily, a "journeyman," and entering into "a contract of service," and, therefore, apparently falling within the required definition, he would not, in respect of the supposed occasional contract of service, be a workman within the act, for the contract would not be in his ordinary character, nor would he, although in one sense engaged in *manual* labour, be a "workman" otherwise engaged in manual labour (*x*).

(*x*) It is very difficult to define "a workman engaged in manual labour" where mind enters largely into combination with muscular activity. As the one or the other dominates, so must exclusion or inclusion in

the term "hand worker" generally follow (see *ante*, p. 111, note (*t*)). A journeyman compositor in a printing office may use more real "mind" in setting up his type than an "author" or "editor," whose chief

On the other hand, it seems clear that the contract of service or for personal execution of work need not be to serve or work exclusively for one employer (*y*).

handmaids may be paste and scissors and occasionally a pen. The case put in the text does not, however, depend on such distinctions, but on the fact that the "hand work" involved in copying writing does not constitute a "workman" engaged in manual labour within the special meaning of the act.

(*y*) The following cases decided under the now repealed act, 4 Geo. 4, c. 34 (incorporated in the Act of 1867), appear to be applicable to the Employer and Workmen Act, 1875. It may be observed that the 4 Geo. 4, c. 34, used (with others) all the definitions as to employments mentioned in the 38 & 39 Vict. c. 90, s. 10, except "journeyman," but was narrower than the last-mentioned act in making a contract of *service* essential.

A designer, who contracts to serve a calico printer for a specific period, and whose duty it is to form designs and draw patterns to be afterwards engraved on copper rollers to be used in calico printing, was within the act 4 Geo. 4, c. 34, as being either an "*artificer*" or "other person" of that class. (Williams, J., *Ex parte Ormerod*, 13 L. J. Rep. (N. S.) M. C. 73; 1 Dowl. & L. 825.)

A journeyman tailor, working with others engaged in the same way for a master tailor on the premises of the latter, and doing such work as he was set to do, being paid wages at a certain price per garment, according to a list of prices agreed upon between employer and

men, the contract not extending beyond the particular job the journeyman was engaged upon at any particular time, but during that job working exclusively for his employer, was within the act. (*Ex parte Gordon*, 25 L. J. Rep. (N. S.) M. C. 12.)

Evidence of a contract to serve as a collier until a month's notice on either side, the price paid to be 1s. 10d. per ton of coals cut, paid monthly, but varying with the price in the district, and the collier agreeing not to work for any other person during the service, nor until the expiration of the month's notice, was held to justify the magistrates in inferring a contract for personal service, and consequently that it was a case within the act. (*Ex parte Bailey* and *Ex parte Collier*, 3 E. & B. 697; 23 L. J. (N. S.) M. C. 161.) In that case Crompton, J., observed that he should have entertained some doubt if he had to decide the fact of a requirement to serve personally. (See the cases of butty colliers under the Truck Act, noticed *post*, Appendix, p. 243.)

Where B., a potter, engaged W. to work for him at specified work in their manufactory for a year at daily wages, and at the same time, by a separate contract, B. engaged R. to work for him by piece work for the same period, and the work which W. had to do was in fact included in the piece work of R., who paid W. his wages out of the amount earned by R. for the piece work, it was held that the contract



It seems, moreover, that the relationship of employer and workman under the contract need not subsist at the time of the proceeding taken under the act. If the law were otherwise many claims by workmen for wages under

of master and servant subsisted between B. & W., notwithstanding the fact of the payment of W.'s wages by the hands of R., and that consequently W. was liable under the statute for neglecting his service with B. (*Willett v. Boote*, 30 L. J. Rep. (N. S.) M. C. 6; 6 H. & N. 26.)

Skilled persons were employed as angle-iron smiths and platers by a shipbuilder, who by a written contract agreed to employ and they exclusively to serve him to the best of their ability, and subject to the regulations of his yard, for the purpose of executing the whole of the skilled and unskilled labour requisite to complete the iron hull of a vessel with the best workmanship, and to the satisfaction of the shipbuilder; the persons so employed agreeing to employ and pay such skilled and unskilled assistants as the shipbuilder should deem requisite, and to be subject to the rules of the yard and of the shipbuilder, including liability to discharge by him and as if each had entered his service; to be paid weekly a fixed sum per ton for the work executed

to the shipbuilder's satisfaction, less a per-centage to be retained until the completion of the work as a security for the work being duly fulfilled; the shipbuilder, in the event of neglect or delay, or insufficiency of hands, to employ other hands and charge any one of the contracting parties with the extra costs, but without prejudice to any other redress arising out of the relation of master and servant thereby created. It was held that they were servants liable to be proceeded against under the 4 Geo. 4, c. 34, for absenting themselves. (*Lawrence v. Todd*, 14 C. B. Rep., N. S. 554; 32 L. J., M. C. 238.\*)

The above cases, as already observed, are still applicable; for being within the 4 Geo. 4 they would, *à fortiori*, be within the 38 & 39 Vict. c. 90.

The act 4 Geo. 4 was held not to apply to a contract to build a wall for a certain price within a certain time, for the relationship of master and servant does not exist. (*Lancaster v. Greaves*, 9 B. & C. 628; and see *West v. Smallwood*, 3 M. & W. 418.) So a contract "to

\* It may be suggested that the authority of this case has been shaken by decisions under the Truck Act. Erle, J., in giving his judgment in *Lawrence v. Todd*, observed, that the Truck Act (1 & 2 Will. 4, c. 37) was *in pari materia* with the statute 4 Geo. 4, c. 34, and that he relied on the authority of *Bowers v. Lovekin* (1 E. & B. 584; 25 L. J., Q. B. 371). In that case Erle, J., had gone further than the rest of the court, and his opinion (so far as it differed from the rest of the court) was disapproved by the Exchequer Chamber in *Ingram v. Barnes* (7 E. & B. 115, 132; 26 L. J. Rep. (N. S.) Q. B. 319); and in the subsequent case of *Steele v. Barrett* (2 H. & C. 934; 33 L. J. (N. S.) Ex. 153), on *Lawrence v. Todd* being cited in argument as affirming *Bowers v. Lovekin*, Martin, B., observed that that was the opinion of Erle, J., who differed from the other judges in *Ingram v. Barnes*. *Bowers v. Lovekin* is, however, apparently still law as having been a contract for personal services. *Lawrence v. Todd* may, however, be upheld without reference to *Bowers v. Lovekin*, the contract showing that the parties expressly contemplated *personal services as servants* to the shipbuilders. Under any circumstances, it seems clear that the facts in *Lawrence v. Todd* would bring the case within the existing act as a *contract of service* for manual work. See the Truck Act and cases upon it, *post*, APPENDIX, pp. 233-247.

past contracts, and many claims by employers for breaches of contracts, where they have already elected to treat the contract as terminated by the wrongful act, but think fit to

print certain pieces of woollen cotton goods" was not within it. (*Ex parte Johnson*, 7 Dowl. P. C. 702; 9 L. J. Rep. (N. S.) M. C. 27; *Johnson v. Reid*, 6 M. & W. 124.)

But it is clear that these cases are not to be relied on as applicable to the 38 & 39 Vict., which only requires a contract of service, or a contract personally to execute any work or labour.

But, on the other hand, the decision that a person engaged to keep the general accounts of a farm, to weigh out food for cattle, to set the men to work, to lend a hand to anything if wanted, and in all things to carry out the orders of his employer, was not within the 4 Geo. 4, either as a "servant in husbandry" or "other person," but was a steward or bailiff (*Davies v. Berwick*, 3 E. & E. 549; 30 L. J. Rep., M. C. 84) seems applicable to the new law; for the words "who being a labourer" do not extend to every description of labour, but to labourers "engaged in manual labour." So, the decision that a person whose name was added to that of a regular officer in a warrant under a *fi. fa.* by a plaintiff's attorney, and who was employed to watch the goods after they had been taken by the officer, was not a labourer within another prior and repealed act (20 Geo. 3, c. 19), is still applicable. (*Brannwell v. Penneck*, 7 B. & C. 536.) But another decision under the same statute that a silk weaver who works up at his own house materials for a master manufacturer was not within it (*Hardy v. Ryle*,

9 B. & C. 603) appears not to be applicable to the altered law.

Although domestic servants, as distinguished from servants in husbandry, are not within the act (and would not be, it seems, even without the express exception, see *Kitchen v. Shaw*, 6 A. & E. 729; 7 L. J. Rep., M. C. 14), a servant may, under special circumstances, serve *intra mœnia*, and nevertheless be regarded as a servant in husbandry.

Where the duties of a female servant were to attend at a farm (where the master did not reside) and perform the duties of a dairy-maid, and to assist in harvest work, and to cook and make beds for the servant men and labourers, it was held that there was evidence on which the justices might adjudge her to be a servant in husbandry, making her main employment as connected with husbandry, and the domestic duties as merely ancillary. (*Ex parte Hughes*, 23 L. J. (N. S.) M. C. 138.) The decision of the Court of Queen's Bench in that case appears, however, to have been misunderstood and consequently abused, the decision merely amounting to this, that there was some evidence on which the justices might come to the conclusion they did. It is clear that if they had found the facts the other way, that the woman was a menial servant, the court would not have interfered, but, on the contrary, have thought the conclusion the sounder alternative.

A foreman is a servant as much as the other servants whose work



claim damages as well, would be defeated so far as relates to the courts of summary jurisdiction (z).

Nor is it essential that the service under any contract of service, or the work or labour under a contract personally to execute any work or labour, should be entered upon. If the contract has been entered into, although remaining wholly unperformed, it is the subject of a proceeding under the act (a).

*Validity of Contract.*]—Although a contract, whether “express or implied, oral or in writing,” is within the act, those words are only explanatory, and do not have the effect of over-riding the general law. Contracts, therefore, must be valid according to that law. Therefore a verbal contract to serve for a year from a future day, the service not being entered upon, cannot be enforced, not being in writing as required by the fourth section of the Statute of Frauds (b). So, again, any contract or stipulation in a

he superintends. (Willes, J., *Galagher v. Piper*, 16 C. B., N. S. 669; cited with approval, *Wilson v. Merry*, Law Rep., 1 Sc. App. Cas. 326.)

(z) Mr. Hannay, the metropolitan police magistrate, appears to have thought that under the Act of 1867 the contract should be still subsisting, *i. e.*, at the time of the complaint made. (See First Report of the Royal Commission on Labour Laws, Minutes of Evidence, p. 126, Question 147.) The contrary has been, however, expressly held with regard to apprentices (*The Queen v. Proud*, Law Rep., 1 C. C. R. 71; 36 L. J., M. C. 62, see *post*), and there does not appear to be any distinction in this respect between apprentices and workmen. Any distinction between the language of the Repealed Act of 1867 and of the Act of 1875 is in favour of the view taken in the text.

(a) This was so under the Act of 1867, but under that act, incorpo-

rating the previous legislation, a contract not entered upon must have been in writing and signed by the contracting parties. (See *Banks v. Crossland*, 44 L. J., M. C. 8.) This provision being repealed, parol contracts can be enforced although not performed in any way; subject, of course, to the Statute of Frauds (see the text, *supra*).

(b) See *Banks v. Crossland*, 44 L. J., M. C. 8. In that case the contract of hiring by parol only at Howden Statute Hirings, held on 11th Nov. 1873, was that the respondent should serve the appellant as a servant in husbandry for one year, to commence at Martinmas (23rd Nov.) 1873, at the wage of 13*l.* The appellant paid to the respondent 3*s.* for his “fastening money” (which money was returned on 30th Nov. 1873, by the respondent to the appellant and returned by him, an immaterial circumstance, however, as it seems).



contract, rendered void by reason of the Truck Act, cannot be enforced (*c*).

It may be observed that agreements for the hire of any labourer, artificer, manufacturer or menial servant are exempted from stamp duty.

*Mutuality of Contracts.*]—Apart apparently from the principle of law, that a consideration is essential to the validity of a parol (verbal or written) contract, the courts of law have not only declined to enforce unequal contracts between masters and servants, but have held that they are not binding upon the latter, and could not be enforced by justices (*d*). Questions of the *mutuality* of contracts of this description have consequently been raised from time to time in the superior courts.

*Contracts held to have sufficient Mutuality.*]—An agreement to serve for seven years as a crown glass maker, and not to work for any other person during that term without the leave of the employer, half wages to be paid during a depression of trade, wages to cease during sickness, and the employer to be at liberty to employ another person in his stead, but certain wages to be paid as long as he continued to be employed as a crown glass maker, and a

*Blackburn, J.*, “The Statute of Frauds enacts, that no action shall be brought to charge the defendant upon any agreement that is not to be performed within the space of one year from the making thereof, which must mean that the contract is not generally to be enforceable whether in an action or in a summary proceeding.” Although decided under the Master and Servant Act, 1867, this case is clearly applicable to the Act of 1875.

(*c*) See the Truck Act, 1 & 2 Will. 4, c. 37, and the cases under it, *post*, APPENDIX. It is scarcely necessary to observe that this act, which extends to England and Scotland, applies as heretofore to claims

for wages. Artificers within the meaning of that act, who have been paid otherwise than in coin, may therefore claim their wages under the Act of 1875.

(*d*) An examination of the cases shows that although the law does not in general take cognizance of the adequacy of a consideration, but merely inquires if there is any consideration at all, in cases of master and servant a *quid pro quo* seems to be considered as essential to bind both parties.

This deviation, if it be a deviation from the general rule as to “consideration,” will scarcely be extended now that the matters are dealt with simply as civil claims.

certain yearly sum in lieu of house rent and firing, with the option of dismissal at a month's notice, was held binding, as showing an undertaking to employ (*e*).

So an agreement to work solely for the employer for a year and further until notice as a tin plate worker, the employer agreeing to pay usual workman's wages weekly for piece work, contains by reasonable implication an obligation on the part of the employer to find reasonable employment (*f*). So where a collier, in consideration of wages to be paid to him fortnightly by a company, agreed to serve the company exclusively as a collier until the expiration of twenty-eight days' notice, and the company, in consideration of such faithful service, agreed that the collier should not be discharged without twenty-eight days' notice, it was held that there was an implied agreement to find him work, and so the agreement was mutually binding (*g*).

*Contracts to serve held void for want of Mutuality.*]—An agreement in writing to work for J. S., and for no other person, until the expiration of twelve months, and so on from twelve months to twelve months until he should give twelve months' notice in writing, the master not executing the agreement, was held to be void (*h*).

*Capacity to contract—Married Women.*]—The parties must be competent to contract. Therefore, where a married woman was employed as an artisan at weekly wages, and left her employment without giving due

(*e*) *Pilkington v. Scott*, 15 M. & W. 657; 15 L. J. Rep. (N. S.) Ex. 329.

(*f*) *The Queen v. Welch*, 2 E. & B. 257; 22 L. J. (N. S.) Q. B. 145.

(*g*) *Whittle v. Frankland*, 2 Best & S. 49; 31 L. J. Rep. (N. S.) M. C. 81. *Williamson v. Taylor*, 5 Q. B. Rep. 175; 13 L. J., Q. B. 81; and *Aspdin v. Austin*, 5 Q. B. Rep. 671; 13 L. J., Q. B. 155; where the court held there was no implied agreement to employ; cannot be re-

lied on as authorities. (See *Emmens v. Elderton*, 4 H. L. Cas. 624; 13 C. B. Rep. 495.)

(*h*) *Sykes v. Dixon*, 9 A. & E. 693; 8 L. J. (N. S.) Q. B. 702. This case, and also *Lees v. Whitcomb*, 5 Bing. 34; 3 C. & P. 219, are, it seems, to be considered as authorities on the ground that the contracts were signed by one party only. (See observation of *Crompton, J.*, in *Whittle v. Frankland*.)

notice, and, being summoned, the magistrates refused to convict her on the ground that she as a married woman was incapable of contracting, and that, consequently, there was nothing to bind her as between her and her employer, it was held by the Court of Queen's Bench that the magistrates were right (*i*); and in a case occurring soon afterwards, where the justices ordered a married woman working as a weaver in a cotton cloth mill to pay compensation, relying on the Married Women's Property Act, 1870 (33 & 34 Vict. c. 93) as giving her power to contract, the same court, confirming their previous decision, held that the justices were wrong (*k*).

*Contracts by Infants.*]—On grounds already stated in a preceding paragraph, it seems clear that, although the words “whether under the age of twenty-one years or above that age” are inserted in the definition of workman (*l*), a contract cannot be enforced against an infant, unless binding on him independently of the act.

The general rule is well known that infants cannot contract so as to bind themselves; but there is a wide exception in regard to necessaries and contracts for their personal services if beneficial to them. In the case, therefore, of a claim against an infant, the court must see that on the whole he derives a benefit under the contract (*m*).

As the receipt of wages is a benefit, there can be no doubt that, generally speaking, a contract by an infant to

(*i*) *Tomkinson v. West*, Q. B., Easter Term, 1875.

(*k*) *Hodkinson v. Green*, Q. B., sittings after Easter Term, 1875. It is scarcely necessary to say that these cases, although decided under the repealed Master and Servant Act, 1867, are still law.

(*l*) 38 & 39 Vict. c. 90, s. 10. The words referred to were not in the bill as originally introduced. There is reason for believing that they were introduced to meet an

apparently popular impression that a person “under age” is not bound, under any circumstances, by an agreement. The words may have, however, a legal effect in avoiding an objection that infants can only sue in a civil court by a “next friend;” a difficulty that was met in the case of county courts by express legislation. (See 9 & 10 Vict. c. 95, s. 64.)

(*m*) *Alderson, B., Wood v. Fenwick*, 10 M. & W. 204.



receive wages for his labour is binding on him, and, if binding, he cannot put an end to it prematurely. That would be a contradiction in terms; because to say that he may contract, is to say that he may bind himself by contract; how, then, can it be determined at his election the next day? (*n*).

Although most contracts of service are on the above grounds to be considered as beneficial and binding on a workman under twenty-one, contracts are sometimes entered into that are not binding, not being beneficial.

Thus, where a contract by an infant bound him to serve a certain number of hours in a week for a year, at weekly wages, with a proviso that in case a steam engine should be stopped from accident or any other cause the master might retain the wages during the stoppage, it was held that the master might stop the work whenever he chose, and that therefore the contract was void as against the infant, and that he could not be punished for absenting himself from the service (*o*).

Lord Denman, in delivering the judgment of the court, after taking time to consider (*p*), said: "Among many objections, one appears to us clearly fatal. He was an infant at the time of entering into the agreement, which authorizes the master to stop his wages when the steam engine is stopped working for any cause. An agreement to serve for wages may be for the infant's benefit; but an agreement which compels him to serve at all times during the term, but leaves the master free to stop his work and his wages whenever he chooses to do so, cannot be considered as beneficial to the servant."

On the other hand, it is to be observed that if an infant elects to adopt a contract, although not obliged to do so, the other contracting party is bound, for as to him the rule is that he is bound though the infant is not (*q*).

(*n*) Lord Abinger, C. B., *Wood v. Fenwick*, *supra*.

(*o*) *Reg. v. Lord*, 12 Q. B. Rep. 757; 17 L. J. Rep. (N. S.) M. C. 181.

(*p*) Lord Denman, C. J., *Paterson, Coleridge and Wightman*, JJ.

(*q*) See Bacon's Abr. Infancy, I. 4.

*The Subject-matter of Jurisdiction.*—The subject-matter of jurisdiction is “any dispute between an employer and a workman arising out of or incidental to their relation as such” (*r*).

The word “dispute” is not very happily chosen, if intended to give an accurate notion of the principal grounds on which proceedings before magistrates have been heretofore instituted. In the majority of cases, an employer had complained of a workman for non-performance of his duty, the non-performance consisting of an absenting without any colour of right or any deliberate intention to violate the contract, express or implied; and where not a word in the shape of “dispute,” in the popular sense of the word, has arisen. So wages not unfrequently simply remain unpaid, from pecuniary embarrassments of the employer.

So also, unless the act is to be to a great extent a dead letter, “dispute” must include a wilful act, unconnected with any “dispute” in the true sense of the word, not amounting to criminal acts provided for by the Conspiracy and Protection of Property Act, 1875, or by any other existing statute.

It must be observed, with reference to cases of a criminal kind, that (unless amounting to a felony) they may be the subject of proceedings as civil claims for damages (*s*).

With the wide range necessary to give the word “dispute,” it may in general be read as “claim,” and the Lord

(*r*) 38 & 39 Vict. c. 90, ss. 3, 4.

(*s*) Under the former law and still applicable on general principles, if the misconduct amounted to a felony the justices had no jurisdiction. (*Coleridge, J., Ex parte Jacklin*, 13 L. J. Rep., M. C. 139; 2 Dowl. & L. 103.) In that case the offence was wrongfully taking corn to give to the master's horses; no longer a felony but an offence

punishable summarily. (26 & 27 Vict. c. 103, see *post*, APPENDIX.)

In felonies, criminal proceedings must precede the claim for personal compensation. In misdemeanors a complainant may, as a general rule, in the absence of special provision to the contrary, seek his damages without regard to the criminal offence.

Chancellor's orders take this view, for they altogether ignore the word "dispute" (*t*).

Still it is quite clear that the jurisdiction is only in respect of a "dispute," whatever effect may be given to that word.

---

§ 3. *Process of the Courts of Summary Jurisdiction preliminary to the Hearing.*

The Employers and Workmen Act, 1875, enacts (*u*), that any dispute or matter in respect of which jurisdiction is given by the act to a court of summary jurisdiction, shall be deemed to be a matter in which that court has authority by law to make an order on complaint, in pursuance of the Summary Jurisdiction Act (11 & 12 Vict. c. 43) (*x*); and further, that all powers conferred by the new act on a court of summary jurisdiction "shall be deemed to be in addition to and not in derogation of any power conferred on it by the Summary Jurisdiction Act" (except warrants to apprehend and the enforcement of orders for payment of money) (*y*).

Notwithstanding this application of Jervis's Act, the proceedings necessary to obtain a hearing and determination of a case by a court of summary jurisdiction are regulated almost wholly by the Lord Chancellor's rules, made under the powers given by the act (*z*).

*Entry of the Plaint.*—A person desirous to take proceedings under the Employers and Workmen Act, 1875, must deliver particulars in writing of his cause of action to the clerk of the court; that is to say, to the magistrates' clerk of the petty sessional division or district "in which the defendant or one of the defendants dwelt or carried on his business or was employed at the time the

(*t*) As to claims by workmen for damages by reason of defective fencing to machinery, or for other negligence, see the observations and cases cited, *post*, APPENDIX, p. 260. (7 & 8 Vict. c. 15.)

(*u*) Sect. 8 (*post*, p. 168).

(*x*) See *ante*, p. 108, n. (*i*).

(*y*) 38 & 39 Vict. c. 90, s. 9, *post*, p. 169.

(*z*) See *ante*, p. 109.



cause of action arose" (*a*). Nevertheless the act, that is to say, the breach of contract complained of, must have been committed within the jurisdiction of the justices constituting the court of summary jurisdiction. But for the rules providing for a plaint book, as mentioned hereafter, to be kept by "the clerk of the court," application might have been made, it seems, to *any* justice of the peace anywhere, having jurisdiction in the county or division, for a summons; leaving it to the properly constituted "court of summary jurisdiction" to hear and determine it (*b*).

No written complaint is required, and it is not necessary (although in most cases desirable) that the plaintiff should attend in person. The personal attendance of some one cognizant of the essential facts will suffice (*c*). A fee of one shilling is payable, where the claim does not exceed one pound, and two shillings if above (*d*). The plaintiff must also prepay, if required, the mileage (and for affidavit and postage if any) for serving the process.

*Particulars of Cause of Action.*]—Although in strictness a plaintiff is bound to prepare his own particulars of his cause of action, there is no doubt that he will be, and ought to be, aided by the magistrates' clerk, and that forms will be provided.

It is very undesirable that unnecessary strictness or any mere technicalities should be introduced into proceedings; still it appears desirable, for several reasons, that the particulars should disclose on the face a "dispute" within the jurisdiction given by the act of parliament.

(*a*) Rules under Employers and Workmen Act, 1875, r. 1, *post*, p. 175. As to the petty sessions, see *ante*, p. 109.

(*b*) See the Summary Jurisdiction Act, 11 & 12 Vict. c. 43, s. 29.

(*c*) *Id.* sects. 8, 10. The plaint-book (see *post*, p. 125) will in fact constitute and be (on proof) a "complaint" to satisfy the requirements of the Summary Jurisdiction Act.

Joint contractors should be before the court, but if represented, some variances are immaterial (see *post*, p. 128),—such as the names of partners instead of the name of an incorporated company, as complainants. (*Whittle v. Frankland*, 2 B. & S. 76; 31 L. J., M. C. 81.)

(*d*) See Rule 19, *post*, p. 178; and Schedule B, *post*, 191.

The following forms may be useful, but they are merely suggestive, and have no official authority.

*Particulars of Cause of Action.*

(1) BY AN EMPLOYER AGAINST A WORKMAN.

Employers and Workmen Act, 1875.

Between A. B... .. Plaintiff,  
and  
C. D... .. Defendant.

Particulars of the plaintiff's cause of action.

The plaintiff claims £        damages for that the defendant, being a workman, and having entered into a contract of service with the plaintiff as his employer, determinable by [*one month's*] notice on either side, wrongfully absented himself from his service on the        day of        , 187    , without having given or received such notice.

*Or,*

The plaintiff claims £        damages for that the defendant, being a workman, and having entered into a contract personally to execute and deliver certain work for the plaintiff, his employer, in a reasonable time, wrongfully neglected to complete and deliver his work in a reasonable time.

*Or,*

The plaintiff claims £        damages for that the defendant, being a workman, and having entered into a contract personally to execute certain work for the plaintiff, his employer, on the plaintiff's materials delivered to him, wrongfully and negligently lost the materials.

(2) BY A WORKMAN AGAINST AN EMPLOYER.

Employers and Workmen Act, 1875.

Between A. B... .. Plaintiff,  
and  
C. D... .. Defendant.

Particular of the plaintiff's cause of action.

The plaintiff claims £        for [*one week's*] wages, from the day of        to the        day of        , 187    , due to him as a workman under a contract of service entered into by him with the defendant, his employer.

*Or,*

The plaintiff claims £        for work done between the        day of        and the        day of        , under a contract personally to execute

work, entered into by the plaintiff, a workman, with the defendant, his employer.

*Or,*

The plaintiff claims £            damages, for that the plaintiff, a workman, having entered into a contract of service with the defendant, his employer, for [*one year*], at the wages of £            , the defendant, on the day of            , wrongfully dismissed him before the expiration of the term.

*Plaint Book.*]—The clerk of the court is required to “enter in a book, to be kept for this purpose in his office, a plaint in writing, stating the names and the last known places of abode of the parties, and the substance of the action intended to be brought (*b*). ”

It follows that the plaintiff must furnish the clerk with the names and last known places of abode of the parties, as well as the particulars of the cause of action. The substance of the action will be gathered from the particulars, and may be, it seems, very concise, as “*absenting from the service*,” “*wages*,” “*neglecting to execute work*,” “*wrongful dismissal*,” and the like.

*Summons.*]—A summons is then prepared and issued by the clerk in the form given in the schedule to the rules (*c*). It is, of course, prepared in duplicate, as well as the particulars of the cause of action which are annexed to and deemed part of the summons (*d*).

A note at the foot of the form of summons says, “This and all other summonses issued under the Employers and Workmen Act, 1875, may be signed by the clerk to the justices, when such justices shall, by a general direction, authorize their clerks to sign them in lieu of one of themselves.”

Apart from the circumstance that this is not itself a rule, but merely a note at the foot of a form, it is desirable

(*b*) Rule 1, *post*. See Form of proceedings” are to be entered. “Plaint and Minute Book,” Form See note (*c*), *ante*, p. 123.  
No. 18, *post*, showing that the (*c*) *Id.*  
“order made” and “subsequent (*d*) *Id.* r. 3.



that the usual course should be adhered to of the justice signing the summons(*e*).

*Service of the Summons.*]—The Summary Jurisdiction Act directs that every summons shall be served “by a constable or other peace officer, or other person to whom the same shall be delivered,” upon the person to whom it is directed, by delivering it “to the party personally, or by leaving the same with some person for him at his last or most usual place of abode”(*f*), and also requires the summons to be served a reasonable time before the time appointed for appearing(*g*). The rules, however, direct a somewhat different practice. The summons is to be “served on the defendant not less than one clear day before the day on which the court shall be holden at which the cause is to be tried”(*h*), and “the service of the summons shall be either personal, or by delivering the same to some person apparently sixteen years old, at the house or place of dwelling, or place of business or of employment of the defendant, or at the office of the employer for the time being of the defendant”(*i*). Further, “any summons which may be required to be served out of the district of the court from which the same shall have issued, may be served by an officer of any other court of summary jurisdiction, which service shall be proved by affidavit of the officer who served the summons”(*k*).

*Attendance of Witnesses.*]—By the Summary Jurisdiction Act if it is made to appear to any justice of the peace, by the oath or affirmation of any credible person, that any person within the jurisdiction of such justice is likely to give material evidence in behalf of the complainant or

(*e*) As to defects in a summons, see *post*, p. 128. time, see *In re Williams*, 21 L. J., M. C. 46; 2 L. M. & P. 580.

(*f*) 11 & 12 Vict. c. 43, s. 1.

(*h*) Rule 1.

(*g*) *Id.* s. 2. As to reasonable

(*i*) Rule 5.

(*k*) Rule 4.

defendant, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the hearing of the complaint, the justice is required to issue a summons requiring him to appear, and in default, on proof of service and of tender of a reasonable sum for costs and expenses, empowering a warrant of arrest(*l*).

The Lord Chancellor's rules are silent on the subject of witnesses on the original hearing, although the schedule of forms contains a form of "summons to witness"(*m*), and the schedule of costs to be paid by persons seeking the assistance of the court has, "For summons to witness, 1s."(*n*).

*Notice of set-off not required.*]—No notice is required to be given by a defendant of any set-off or counter-claim(*o*).



#### § 4. *Proceedings on the Hearing.*

The court of summary jurisdiction being duly constituted of two or more justices, as already mentioned, as a court of civil proceeding(*p*), proceeds, on the return day of the summons, to hear and determine the "dispute;" hearing the parties and their wives and other witnesses, so far as the parties desire to be themselves examined, or have others as witnesses.

It is to be observed that without any special provision, the defendant, on a complaint on which an order can be made under the Summary Jurisdiction Act, is a competent witness(*q*).

All witnesses, including the parties, are examined on oath or declaration(*r*).

(*l*) 11 & 12 Vict. c. 43, s. 7.

(*m*) See the Form, *post*, p. 179.

(*n*) See *post*, p. 191.

(*o*) Rule 6.

(*p*) See *ante*, pp. 107, 108.

(*q*) See *ante*, p. 99, n. (*n*).

(*r*) 11 & 12 Vict. c. 43, s. 15; 32 & 33 Vict. c. 68, s. 4.

*Attornies and Counsel.*.]—By express provision of the Summary Jurisdiction Act, the party against whom a complaint is made is to be admitted to make his full answer and defence, and to have the witnesses examined and cross-examined by counsel or attorney on his behalf, and every complainant is at liberty to conduct the complaint, and to have witnesses examined and cross-examined by counsel or attorney on his behalf.

*Court open to the Public.*.]—The Summary Jurisdiction Act enacts that the place in which the justices sit is deemed an open and public court to which the public generally may have access, so far as the same can conveniently contain them.

*Adjournment.*.]—The justices present constituting the court may, before or during the hearing, in their discretion, adjourn the hearing to some time appointed in the presence and hearing of the party or parties or their respective attornies or agents then present (*s*).

*Defects in Substance or Form and Variances between Summons and Evidence.*.]—The Summary Jurisdiction Act provides that no objection shall be taken or allowed to any summons for any alleged defect therein in substance or in form, or for any variance between such summons and the evidence adduced on the part of the complainant at the hearing; but if any such variance shall appear to the justices present and acting at such hearing to be such that the party summoned and appearing has been thereby deceived or misled, the justices may, upon such terms as they think fit, adjourn the hearing of the case to some future day (*t*).

(*s*) Summary Jurisdiction Act,  
11 & 12 Vict. c. 43, s. 16. The  
justices cannot, however, alter the

place of hearing.

(*t*) 11 & 12 Vict. c. 43, s. 1.  
See note (*c*), *ante*, p. 123.



*Proceedings where both Parties appear.*—The application of the Summary Jurisdiction Act to these proceedings may render the course to be adopted, where both parties appear, somewhat different (in the absence of any rules) from the practice on the trial of actions in the county court. That act provides that where the defendant is present at the hearing, the substance of the complaint shall be stated to him, and he shall be asked if he have any cause to show why an order should not be made against him; and if he thereupon admit the truth of the complaint, and show no cause, or no sufficient cause, why an order should not be made against him, the justices may make an order against him accordingly; but if he do not admit the truth of the complaint, then the justices shall proceed to hear the complainant and such witnesses as he may examine, and such other evidence as he may adduce in support of his complaint, and also to hear the defendant and such witnesses as he may examine, and such other evidence as he may adduce; and also to hear such witnesses as the complainant may examine in reply; but the complainant shall not be entitled to make any observations in reply upon the evidence given by the defendant, nor shall the defendant be entitled to make any observations in reply upon the evidence given by the complainant in reply as aforesaid; and the justices having heard what each party shall have to say as aforesaid, and the witnesses and evidence so adduced, shall consider the whole matter and determine the same, and shall make an order upon the defendant, or dismiss the complaint, as the case may be (*u*).

As, however, the Employers and Workmen Act, 1875, expressly enacts that the court of summary jurisdiction

(*u*) 11 & 12 Vict. c. 43, s. 14, omitting so much of the section cited as relates to *convictions*. For instance, the section speaks of witnesses as to the defendant's general

character. No such evidence is admissible in the case of orders, and certainly not in the still more strictly civil cases under consideration.

shall be deemed to be a court of civil jurisdiction, it follows that in matters of practice, not affecting jurisdiction, the practice of the county court ought to be followed rather than the directions of the Summary Jurisdiction Act; and it is apparent that the Lord Chancellor's rules have been framed on that view.

*Proceedings where the Defendant does not appear.*—The Summary Jurisdiction Act gives an alternative in the event of the non-appearance of a defendant to a complaint—the issue of a warrant to apprehend him, or, upon proof that the summons was duly served upon the defendant a reasonable time before the time appointed for appearance, the justices may proceed *ex parte* to the hearing of the complaint, and to adjudicate thereon as fully and effectually, to all intents and purposes, as if such party had personally appeared before them in obedience to the summons (*x*). The Employers and Workmen Act, 1875, however, in conferring the powers of the Summary Jurisdiction Act on courts of summary jurisdiction, excepts the power to issue a warrant for apprehending any person (other than an apprentice) for failing to appear in answer to any complaint (*y*).

The rules somewhat impinge on the power given by the Summary Jurisdiction Act (to proceed *ex parte* on proof of service upon the defendant a reasonable time before the day of hearing), by providing that if the defendant shall not appear or sufficiently excuse his absence, or neglects to answer when called in court, the court, on proof of service of the summons, may either adjourn the case from time to time, or proceed to the hearing on the part of the plaintiff only, “and the judgment thereupon shall be as valid as if both parties had attended; provided that the court in any such case, at the same or any subsequent court, may set aside any judgment so given in the absence of the defendant, and the execution

(*x*) 11 & 12 Vict. c. 43, s. 2, see also s. 13.

(*y*) 38 & 39 Vict. c. 90, s. 9.

thereupon, and may grant a new trial upon such terms, if any, as it may think fit" (z).

The court ought to be careful to avoid, as far as practicable, making any order in the absence of a reasonable inference that the summons has reached the hands or come to the knowledge of a defendant (a).

*Proceedings where the Plaintiff does not appear.*—The Summary Jurisdiction Act provides, that if the complainant do not appear by himself, his counsel or attorney, the justices shall dismiss the complaint, unless for some reason they think proper to adjourn the hearing to some other day, upon such terms as they shall think fit (b). The rules also provide, that if the plaintiff shall not appear on the return day, or at any continuation or adjournment, the cause shall be struck out, and the court may award costs to the defendant (c).



### § 5. *Orders of the Court of Summary Jurisdiction.*

*General Powers of the Court in making an Order.*—The Employers and Workmen Act, 1875, enacts, that in a proceeding in relation to any "dispute," the court may order payment of any sum which it may find to be due as wages, or damages or otherwise, and may exercise all or any of the powers conferred by the act on a county court (d). The powers conferred on a county court by the act in addition to its ordinary jurisdiction are the following:—(1) "The court may adjust and set off the one against the other all such claims on the part either of the employer or of the workman, arising out of or incidental to the relation between them, as the court may find to be subsisting, whether such claims are liquidated or unliquidated, and are for wages, damages or otherwise;"

(z) Rule No. 8.

(a) See *Ex parte Smith*, Q. B., Easter Term, 1875.

(b) 11 & 12 Vict. c. 43, s. 13.

(c) Rule 7. See Form of order of "Judgment for Defendant," and for costs, schedule to Rules, No. 4.

(d) 38 & 39 Vict. c. 90, s. 4.



- (2) "If, having regard to all the circumstances of the case, it thinks it just to do so, it may rescind any contract between the employer and the workman, upon such terms as to the apportionment of wages or other sums due thereunder, and as to the payment of wages or damages, or other sums due thereunder, and as to the payment of wages or damages, or other sums due, as it thinks just;"
- (3) Power to accept security and order performance (*e*).

The court may direct the payment of any money to be by instalments, and may rescind or vary such order (*f*).

*Security for Performance.*—In some cases the court of summary jurisdiction will doubtless exercise the power conferred on it of accepting security and ordering performance of the contract. Both plaintiff and defendant must be consenting parties, and the security involves the defendant finding a surety (*g*). With the power thus limited, it will seldom admit of application to cases other than those where the defendant admits either wholly or in part that he has broken his contract, as alleged by the plaintiff. From the nature of the cases, it can be very rarely applied to complaints against employers: apart from other considerations, a workman prefers a money payment, while an employer prefers performance (*h*).

Performance, when the defendant is willing to give security, may be ordered in place either of the whole of the damages which would otherwise have been awarded, or some part of such damage (*i*).

The statute evidently contemplates the hearing of the case and arriving at a conclusion, not only as to a breach, but also as to the amount of damages, before exercising any discretion as to accepting security, and the form of

(*e*) See *infra*.

and No. 4.

(*f*) 38 & 39 Vict. c. 90, s. 9. The schedule to the Rules provides a form of "judgment for plaintiff," and another of "judgment for defendant;" see Forms, *post*, No. 3

(*g*) 38 & 39 Vict. c. 90, s. 3.

(*h*) See the general observations as to orders and security for performance, *ante*, pp. 86—91.

(*i*) 38 & 39 Vict. c. 90, s. 3.

undertaking given with the Chancellor's orders, clearly points to it (*k*). Unless, therefore, the defendant admits the whole case of the complainant the case must be heard, although, perhaps, if the language of the act had been slightly different much time might have been saved.

*Costs.*—The Summary Jurisdiction Act empowers justices making orders, in their discretion, to award and order in and by such order that the defendant shall pay to the complainant such costs as to such justices shall seem just and reasonable in that behalf; and, on the other hand, where the justices dismiss the complaint, they may by their order of dismissal award and order the complainant to pay to the defendant such costs as to the justices shall seem reasonable, and the sums so allowed for costs shall in all cases be specified in such order or order of dismissal; and the same shall be recoverable in the same manner and under the same warrants as any sum of money adjudged to be paid in and by such order is recoverable; and in cases where there is no such sum to be thereby recovered, then such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of such distress by imprisonment, with or without hard labour, for any time not exceeding one calendar month, unless such costs shall be sooner paid (*l*).

This provision must be regarded as the foundation of the power of the court of summary jurisdiction to give costs in proceedings under the Employers and Workmen Act, 1875. That act, however, affected the above power by enacting that orders for the payment of money shall not be enforced by imprisonment except under the Debtors Act (*m*), and by excepting some description of goods and chattels from distress (*n*).

Further, the power of the Lord Chancellor to make

(*k*) See the Schedule of Forms,  
No. 10.

(*m*) See *post*, p. 142.

(*n*) See *post*, p. 140.

(*l*) 11 & 12 Vict. c. 43, s. 18.

rules for carrying into effect the jurisdiction given to courts of summary jurisdiction is stated to be "in particular for the purpose of regulating the costs of any proceedings in a court of summary jurisdiction, with power to provide that the same shall not exceed the costs which would in a similar case be incurred in a county court" (*o*).

The rules accordingly provide a schedule of costs, "to be paid in the first instance by every person seeking the assistance of the court" (*p*), and also provide that the court may allow the costs of a solicitor, not exceeding ten shillings in claims above forty shillings, and not exceeding fifteen shillings where it exceeds five pounds (*q*). The Forms and Orders also provide for the costs. The allowance of costs to the defendant where the plaintiff does not appear has been already noticed (*r*). As to the enforcement of costs, see § 7. *Enforcement of Orders, post*.

---

### § 6. *The Award of Damages.*

Without attempting to enter upon the legal rights of persons in the relation of employer and employed, a subject out of place in treating of *procedure*, a few words on the question of damages to be awarded by the court of summary jurisdiction will not be inappropriate.

The court is not at liberty to award damages at discretion, as they might impose a fine. The right to, and the amount of, damages are governed by legal principles, which the civil courts of summary jurisdiction must strictly adhere to.

Damages for breach of contract must be the direct consequence of the breach (*s*).

(*o*) 38 & 39 Vict. c. 90, s. 9.

(*p*) See Rule 19, *post*, p. 178, and Schedule B., *post*, p. 191.

(*q*) Rule 20.

(*r*) See *ante*, p. 131.

(*s*) *Martin, B., Burton v. Pinkerton*, L. R., 2 Ex. 350; 36 L. J., Ex. 137. "According to the ordinary rule, damage to be recoverable by a plaintiff must inevitably flow from



Thus, taking as an illustration a case of breach of contract by the employed person in an action for the breach of a contract for work and labour to be done upon a farm, evidence of damage occurring to the plaintiff's crops in consequence of the defendant's leaving his service is inadmissible. The legal measure of damages in such cases is the difference between the wages agreed to be paid to the defendant and the price the plaintiff was obliged to pay for labour to supply his place (*t*).

Most of the master and servant cases, however, in which questions have arisen as to the legal amount of damages recoverable, have been claims by the employed against the employer.

In the case of agreements to work for a specified time for a given sum, where the party employed quits his employment without the consent of the other, and before the period fixed, the sound rule is that nothing can be recovered by him (*u*); that is to say, for the current period of service, or, in other words, the period subsequent to the last pay day, whether the wages are payable weekly, quarterly, or yearly.

And this rule applies as well where the employer has terminated the contract in consequence of the servant's default, as where the latter has voluntarily absented him-

the tortious act of the defendant. It must be caused by him as the *causa causans*." *Bramwell*, B., *S. C.* In that case a mariner undertook to serve on board a vessel for a given time and upon a particular description of voyage, and was taken another voyage, exposing him to extraordinary and unforeseen dangers, and he left the ship in a foreign port, where he was imprisoned by the authorities there; it was held, that although he could recover damages for his loss of wages and something as general damages for inconvenience and annoyance suffered, he could not recover damages

for the imprisonment or for the loss of his clothes left on board the ship, which sailed away during his imprisonment.

(*t*) Sedgwick on Damages, p. 255 (*n.*), citing *Peters v. Whitney*, 23 Barb.(N. Y.) 24. If unable to fill the place, and the workman knew that result would follow from the breach, the damages would be different.

(*u*) See Sedgwick on Damages, 6th edit. pp. 254, 255, and the elaborate examination of the American authorities as to the effect of the partial benefit derived by the employer from a partial performance.

self. Thus, if a master dismisses a servant for refusing to obey a lawful order ( $x$ ), or for any other misconduct, no action can be maintained for the past service for the current period, although hired for a given time ( $y$ ), nor even if the employer has recovered damages for the misconduct for which the dismissal took place ( $z$ ).

In such cases, however, the plaintiff had no right of action, because the defendant had not really broken his contract. The question under consideration, as to the amount of damages legally recoverable, arises where there has been a breach of contract.

Where the party employing another puts an end to the contract without just cause, the party employed has a right to exact the entire amount of his wages for the full period. This, however, is subject to the right to recoup what the plaintiff could reasonably have earned during the time covered by the remainder of the contract ( $a$ ).

“The true measure of damages is the loss sustained at the time of dismissal. The servant, after dismissal, may, and ought to, make the best of his time, and he may have an opportunity of turning it to advantage” ( $b$ ), and, therefore, the actual loss may be much less than the wages, where another employment may be easily obtained ( $c$ ).

( $x$ ) *Spain v. Amott*, 2 Stark. 256. That was the case of a yearly farm servant who was ordered to go a mile with the horses before dinner, dinner being ready, and the servant refused until he had had his dinner, upon which the master told him to go about his business, and the plaintiff went. Lord *Ellenborough* expressed his opinion that although it might be hard upon the servant, the action could not be maintained, and a juror was withdrawn.

( $y$ ) *Turner v. Robinson*, 5 B. & Ad. 789; *Ridgway v. Hungerford Market Co.*, 3 A. & E. 171.

( $z$ ) *Turner v. Robinson*, *supra*.

( $a$ ) Sedg. 6th edit. p. 255, note \*, and pp. 416, 417.

( $b$ ) *Erle, J., Goodman v. Pocock*, 15 Q. B. Rep. 583, 584.

( $c$ ) *Parke, B., delivering the judgment of the Exchequer Chamber, Elderton v. Emmens*, 6 C. B. Rep. 187.

“In actions for wages brought against the employer by the servant or employée discharged without cause before the end of the contract of service ‘a compensation is intended to be allowed,’ says Mr. Justice *Story*, ‘which shall be a complete indemnity to the illegal discharge; and this is ordinarily measured by the loss of time and



“The measure of damages for the breach of promise now in question (that is to say, a contract for hiring and service as a type founder for a definite time at weekly wages, and a dismissal during the time) is obtained by considering what is the usual rate of wages for the employment here contracted for, and what time would be lost before

the expenses incurred by the party.’ The recovery should be for the difference between the sum he should have received under the contract and that which he has or it is shown might have received elsewhere, the object being to compensate him for his loss of wages as far as it might not have been prevented wholly or in part by his own want of due diligence. His readiness to perform and prevention by his employer are not necessarily equivalent, as regards the question of damages, to actual performance. He has no right to insist on employment in the same business at the same price. If that business is not to be had he is bound to engage in another, and, if need be, at a less price. The same rule of recovery has been applied to the case of a ship carpenter who had engaged for the voyage, where the shipping master failed to give him timely notice of the departure of the ship, which sailed without him. The plaintiff may consider the contract as rescinded, and recover on a *quantum meruit*, what his services were worth for the time he worked, deducting what he had received. There is some disparity in the decisions in the case of the servant’s failure to obtain employment, as to whether the burden of proof lies on him or the employer to explain it, and in Mississippi it is held that the servant, to recover for the time

during which he was out of employment, must show due diligence in the endeavour to procure a situation. But the general rule is the other way. And in Minnesota, the supreme court of that state, while acquiescing in the doctrine that the employee’s claim must be reduced by the amount which it was proved he had earned or might have earned elsewhere, as too well settled to be disturbed, remarked that it failed ‘to see on what sound principle a man was to be punished in this manner’ for a failure in the performance of the abstract duty not to be idle, ‘or why the employer should be relieved from the consequences of a wilful breach of contract because the employee has committed a breach of a moral obligation.’ And to entitle the defendant to reduce the recovery on the ground that the plaintiff had earned money in another employment, it must also be shown that if he had not been discharged, he could not have earned it without violating his duty under his contract. But, although, in actions of this sort, the burden of proof to show that plaintiff’s failure to obtain employment is thrown on the defendant, the plaintiff is held to *active* diligence in procuring it, and he cannot recover so far as his loss might have been prevented by such diligence.” (Sedgwick, Dam. 6th edit. p. 417 (n.) 2, omitting references to American cases.)



a similar employment could be obtained. The law considers that employment, in any ordinary branch of industry, can be obtained by a person competent for the place, and that the usual rate of wages for such employment can be proved, and that when a promise for continuing employment is broken by the master, it is the duty of the servant to use diligence to find another employment (*d*). Upon these principles, in the present case, if the place of foreman in a type-foundry could not probably be again obtained without delay, and if the wages in the contract broken were higher than usual, the damages should be such as to indemnify for the loss of wages during that delay, and for the loss of the excess of the wages contracted for above the usual rate; but no allowance would be made in the nature of *pretium affectionis*, nor any reference to any pain that might be felt by the servant on the ground that he was attached to the place.

“If the breach of promise had arisen because the defendants had retired from business, the action would have lain; but if the defendants, in answer to the claim of damages, had proved that another person carried on the same business, and offered the plaintiff the same situation at the same or higher wages, the claim for more than nominal damages would, in my judgment, be at an end, and the plaintiff would not be allowed to prove that the change of employer was a source of regret personal to himself, and to obtain compensation for such regret.

“Indemnity for the loss of his bargain in respect of his labour would be settled on the same principle as for the loss of a bargain in respect of common merchandize. If goods are not delivered or accepted according to contract, time and trouble as well as expense may be required, either in getting other similar goods or finding another purchaser; and the damage ought to indemnify, both for such time, trouble and expense, and for the difference between the

(*d*) *Elderton v. Emmens*, 4 C. B. 498 (*n.*); 6 C. B. Rep. 160; 17 L. J., C. P. 307.

market price and the price contracted for. Loss of time and trouble would be occasioned by a breach of contract in respect of employment, but they are such time and trouble as have a known merchantable value, and the compensation is measured wholly regardless of the considerations which guide where bodily or mental pain is the direct object of contemplation" (e).

*Liquidated Damages or Penalty.*—Where parties have agreed for a stipulated sum, questions may arise whether such sum is to be taken as agreed and liquidated damages, or only as a "penalty."

In the former case the stipulated sum is recoverable, in the latter the actual legal damage must be ascertained, notwithstanding the *apparent* effect of the words (f).

Thus, where A. entered into an agreement with B. and C. to serve them for seven years at fixed wages, at the rate of three guineas weekly, "the party making default to pay to the other the sum of 500*l.* by way of or in nature of specific damages," it was observed that, "since the cases of *Astley v. Weldon* (2 B. & P. 346) and *Kemble v. Farren* (6 Bing. 141), it can hardly in this case be contended that the 500*l.* could be recovered as agreed and liquidated damages, but that that sum is a penalty only" (g).

(e) *Erle, J., Beckham v. Drake* (H. L.), 2 H. L. Cas. 606—608. "After a wrongful dismissal the servant or party employed may recover such damages as a jury think the loss of the situation has occasioned. If he has obtained, or is likely to obtain, another situation, the damages ought to be less, or nominal, according to the real loss, and in such case the servant need not remain idle, in readiness to give services which cannot be wanted. I quite agree with what was said by my brother *Erle* in this house in the case of *Beckham v. Drake*, 2 H. L. 606, that where a promise for con-

tinuing employment is broken by the master, it is the duty of the servant to use diligence to find another employment." (*Crompton, J., Emmens v. Elderton* (H. L.), 13 C. B. 508.)

(f) The cause of this distinction involves a long story. As to the general application of the rule, see *Kemble v. Farren*, 6 Bing. 141; *Betts v. Burch*, 4 H. & N. 506; 28 L. J., Ex. 267; see also 38 & 39 Vict. c. 90, s. 11, *post*, p. 171.

(g) *Wightman, J., Beckham v. Drake*, 2 H. L. Cas. 618. See also judgment of *Maule, J., S. C.*

§ 7. *The Enforcement of Orders.*

Orders of a court of summary jurisdiction, under the Employers and Workmen Act, 1875, are enforced by the combined powers of that act and of the Summary Jurisdiction Act, applied for this purpose, and of the Lord Chancellor's rules under the first-mentioned act.

*Orders for Payment of Money.*]—Orders for the payment of money are enforceable by distress and sale of goods, as ordered by the judgment; and also by an order of commitment on a judgment summons under the Debtors Act, 1869, either subsequent to an ineffectual execution against goods, or without the intervention of a distress warrant.

*Execution against the Goods and Chattels.*]—The powers of the Summary Jurisdiction Act as to the issue of warrants of distress are applicable, except that the wearing apparel and bedding of the debtor or his family, and the tools and implements of his trade to the value of five pounds, are excepted; and further, there is no liability to imprisonment in default of distress under that act, but only under the Debtors Act, 1869 (*h*).

The Lord Chancellor's rules provide forms of warrants of distress for payment of money by a plaintiff and defendant respectively, but the power to issue them rests on the Summary Jurisdiction Act, as applied by the Employers and Workmen Act, 1875.

The Summary Jurisdiction Act enacts, that where an order requires the payment of a sum of money, and by the statute authorizing such order such sum of money is to be levied upon the goods and chattels of the defendant by distress and sale thereof, and also in cases where by the statute in that behalf no mode of raising or levying such sum of money or of enforcing payment of the same

(*h*) See 38 & 39 Vict. c. 90, s. 9.



is stated or provided, it shall be lawful for the justices making such order, or for any justice of the peace for the same county, riding, division, liberty, city, borough or place, to issue his warrant of distress (in a form provided) for the purpose of levying the same, which said warrant of distress shall be in writing under the hand and seal of the justice making the same; and if after delivery of such warrant of distress to the constable or constables to whom the same shall have been directed to be executed, sufficient distress shall not be found within the limits of the jurisdiction of the justice granting such warrant, then upon proof alone being made on oath of the handwriting of the justice granting such warrant before any justice of any other county or place, such justice of such other county or place shall thereupon make an indorsement in a given form, signed with his hand, authorizing the execution of such warrant within the limits of his jurisdiction, by virtue of which said warrant and indorsement the sum aforesaid and costs, or so much thereof as may not have been levied or paid, shall and may be levied by the person bringing such warrant, or by the person or persons to whom such warrant was originally directed, or by any constable or other peace officer of such last-mentioned county or place, by distress and sale of the goods and chattels of the defendant in such other county or place (*i*).

Passing over the question whether, under a very strict interpretation of the language of this section, an order under the Employers and Workmen Act, 1875, falls within it, and assuming that such an order is within it, it may be observed that the court of summary jurisdiction, for the purpose of issuing distress warrants, may be "any justice or justices of the peace to whom jurisdiction is given by the Summary Jurisdiction Act" (*k*).

Warrants of distress may be signed by one justice, and

(*i*) 11 & 12 Vict. c. 43, s. 19.

(*k*) 38 & 39 Vict. c. 90, s. 10.

the forms given by the Chancellor's rules are accordingly so framed.

*Judgment Summons.*—The Employers and Workmen Act, 1875, enacts that “any sum payable by any person under the order of a court of summary jurisdiction, in pursuance of this act, shall be deemed to be a debt due from him in pursuance of a judgment of a competent court within the meaning of the 5th section of the Debtors Act, 1869, and may be enforced accordingly; and, as regards only such debt, a court of summary jurisdiction shall be deemed to be a court within the meaning of the said section” (*l*). It also enacts that the rules made by the Lord Chancellor (*m*), “so far as they relate to the exercise of jurisdiction under the said 5th section of the Debtors Act, 1869, shall be deemed to be prescribed rules within the meaning of the said section.”

To render this power clear, it is necessary to state that the Debtors Act, 1869 (*n*), s. 4, enacts that, with certain exceptions, no person shall be arrested or imprisoned for making default in payment of a sum of money. Among the exceptions are “default in payment of any sums recoverable summarily before a justice or justices of the peace,” and “default in payment of sums in respect of the payment of which orders are in this act authorized to be made.” Sect. 5 enacts that, “subject to the provisions hereinafter mentioned, and to the prescribed rules, any court may commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt or instalment of any debt due from him in pursuance of any order or judgment of that or any other competent court: provided (1) That the jurisdiction by this section given of committing a person to prison shall, in the case of any court other than the superior courts of law and equity, be

(*l*) 38 & 39 Vict. c. 90, s. 9.

(*n*) 32 & 33 Vict. c. 62.

(*m*) See *ante*, p. 109.

exercised only subject to the following restrictions; that is to say, (*a*) be exercised only by a judge or his deputy, and by an order made in open court, and showing on its face the ground on which it is issued; (*b*) be exercised only as respects a judgment of a superior court of law or equity, where such judgment does not exceed fifty pounds, exclusive of costs; (*c*) be exercised only as respects a judgment of a county court by a county court judge or his deputy: (2) That such jurisdiction shall only be exercised where it is proved to the satisfaction of the court that the person making default either has or has had, since the date of the order or judgment, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same. Proof of the means of the person making default may be given in such manner as the court thinks just; and for the purposes of such proof the debtor, and any witnesses, may be summoned and examined on oath, according to the prescribed rules. . . . For the purposes of this section any court may direct any debt due from any person, in pursuance of any order or judgment of that or any other competent court, to be paid by instalments, and may from time to time rescind or vary such order. . . . No imprisonment under this section shall operate as a satisfaction or extinguishment of any debt, or demand, or cause of action, or deprive any person of any right to take out execution against the land, goods or chattels of the person imprisoned, in the same manner as if such imprisonment had not taken place. Any person imprisoned under this section shall be discharged out of custody upon a certificate signed in the prescribed manner to the effect that he has satisfied the debt or instalment of a debt in respect of which he was imprisoned, together with the prescribed costs (if any)."

Rules of the Lord Chancellor relating to a judgment summons (which are deemed to be "prescribed" rules) are comprised in the rules issued under the Employers



and Workmen Act, 1875. It is sufficient to refer to them without giving them here (*o*).

It is to be remarked, that although a court of summary jurisdiction is to be deemed a court within sect. 5 of the Debtors Act, 1869, no express provision is made for the exercise by the court of the power of a "judge or his deputy." Neither is any provision made as to the prison to which a debtor is to be committed. Under the Summary Jurisdiction Act, the imprisonment in default of distress is to the house of correction, or if there be no house of correction then to the common gaol (*p*).

As to proof of "the means to pay," it may be stated that the words point not merely to "means" as realized means in the shape of money or other tangible assets, but also to the ability to earn or acquire the means by the debtor's personal exertions (*q*).

*Enforcement of Undertaking for Performance.*—An undertaking by the defendant and his surety or sureties for performance of a contract, is subject on non-performance, to the payment of a sum specified in the undertaking (*r*), and the court in or under the direction of which it is given may order payment of any sum which may become due in pursuance of such security (*s*). Further, any sum paid by a surety on behalf of a defendant in respect of a security, together with all costs incurred by such surety in respect of the security, is deemed to be a

(*o*) See *post*, pp. 177, 178.

(*p*) 11 & 12 Vict. c. 43. See the Prisons Act, 28 & 29 Vict. c. 126.

(*q*) "Means," therefore, are not confined to such "means" as Shylock and Falstaff had in view when the former said of Antonio: "His means are in supposition," and when Falstaff to the Chief Justice's reproof, "Your means are very slender and your waste great," re-

plied, "I would it were otherwise; I would my means were greater, and my waist slenderer." The "means" in the text embrace—

"Both strength of limb and policy  
of mind,  
Ability in means and choice of  
friends,"  
spoken of by Leonato in "Much  
Ado about Nothing."

(*r*) 38 & 39 Vict. c. 90, s. 3.

(*s*) *Id.* s. 8.

debt due to him from the defendant; and where such security has been given in or under the direction of a court of summary jurisdiction (as distinguished from a county court), that court may order payment to the surety of the sum which has so become due to him from the defendant (*t*).

It follows, therefore, that a court of summary jurisdiction acquires a distinct jurisdiction over third persons in enforcing the security—not only against the principal (the original defendant) and against the surety on behalf of the original plaintiff, but also on behalf of the surety against the principal. This jurisdiction is to be exercised by orders, in respect of which the court of summary jurisdiction has the same power as in making an order; and therefore it seems that the mode of enforcing payment of the sum mentioned in the undertaking as a forfeiture to the plaintiff, even as against the principal, is only by a summons and an order, which is enforced by execution against the goods or by a judgment summons as in other cases (*u*).



### § 8. *Force and Effect of Orders.*

It is desirable to say a few words as to the force and effect of orders made by a court of summary jurisdiction.

(*t*) 38 & 39 Vict. c. 90, s. 3.

(*u*) Although the Employers and Workmen Act, 1875, gives the Lord Chancellor (apart from the general power to make rules for carrying into effect the jurisdiction given by the act) special power to make rules with respect to giving security under the act, no *rule* has been issued directly affecting security. A form of undertaking is, however, given as already mentioned.

Still no rules could properly provide for the enforcement without

giving all parties entering into the security an opportunity of being previously heard. In *Crane v. Powell*, 38 L. J., M. C. 43, *Willes*, J. (as to an order to return to work under the Master and Servant Act, 1867, which the defendant neglected to obey), said:—"It will be for the plaintiff to consider whether he can enforce that part of the order without bringing the appellant before the justices again on a fresh summons after he has failed to return to his work."

In the first place it seems to be clear that an order once complete is final, and cannot be varied or superseded, or the case reheard by the court of summary jurisdiction, except in those cases expressly provided for by the Employers and Workmen Act, 1875, or by orders of the Lord Chancellor made under it. The only power of this kind mentioned in the act relates to orders for the payment of money by instalments. The court may direct any sum of money, for the payment of which it makes an order to be paid by instalments, “and may from time to time rescind or vary such order” (*x*). The rules provide that in the case of a “judgment” (*i. e.*, an order made), in the absence of the defendant, “the court in any such case, at the same or any subsequent court, may set aside any judgment so given in the absence of the defendant, and the execution thereupon, and may grant a new trial upon such terms, if any, as it may think fit” (*y*).

In any other case an order of a court of summary jurisdiction must be treated as conclusive as an order of justices under the Summary Jurisdiction Act and only capable of being reviewed or set aside (unless on a case stated as mentioned below), by a superior court (exercising as a divisional court under the Judicature Act, the powers of the Court of Queen’s Bench) where any excess of jurisdiction or fatal irregularity has occurred.

*Case for Opinion of Superior Court.*—As the court of summary jurisdiction is constituted of justices of the peace, and the dispute or matter is deemed to be a matter on which the court has authority to make “an order on complaint” in pursuance of the Summary Jurisdiction Act (11 & 12 Vict. c. 43), it seems that the court may state a case for the opinion of a superior court under the Act 20 & 21 Vict. c. 43 (*z*), which enacts (sect. 2), that “after the hearing and determination by a justice or jus-

(*x*) 38 & 39 Vict. c. 90, s. 9.

(*y*) Rule 8.

(*z*) This act extends to Ireland, but not to Scotland.



tices of the peace of any information or complaint which he or they have power to determine in a summary way, by any law now in force or hereafter to be made, either party to the proceeding before the said justice or justices may, if dissatisfied with the said determination as being erroneous in point of law, apply in writing within three days after the same to the said justice or justices to state and sign a case setting forth the facts and the grounds of such determination for the opinion thereon of one of the superior courts of law to be named by the party applying," and makes provision for the granting and hearing of such case (a).

*Effect of Order on a subsisting Contract.*—Another and more difficult question will probably be raised from time to time, and one which courts of summary jurisdiction will be called upon to determine in the first instance; namely, the effect of orders on particular contracts.

Where a contract is rescinded by the court, under the power conferred on it, of course there is an end of the whole matter as regards claims by employer and employed under it; so also no difficulty arises where the contract has expired; but the question referred to applies to cases where, under a subsisting contract, a "dispute" has arisen, and the court has awarded damages for a breach. Where the breach complained of is the common case of a wrongful absenting from the service, an employer has in general a right either to treat the contract as at an end, or he may treat it as subsisting. It is a matter in his election. In either case he can summon the workman for the breach, and the amount of damages must in strictness be the same in either case; for it is the loss sustained or accruing from the past breach that the court has to ascertain and estimate. It has no right to suppose, where the plaintiff

(a) See the statute with the decisions carefully and clearly stated in Mr. Cunningham Glen's last edition of Jervis's Acts. See also the last edition of Oke's Magisterial Synopsis.

desires to enforce the subsequent performance, that the defendant, after the decision and award of damages for the past, will not perform his part of the contract in future. It follows that a subsequent breach by reason of a continued absence can be the subject of another claim, to which the first order is no bar. This has been expressly so decided in reference to the Master and Servant Act, 1867, by the Court of Queen's Bench, in the case of *Cutler v. Hague* (b).

In that case a workman had agreed to serve his employer in Sheffield for five years at piece work, at the usual prices allowed by those in the same trade for similar work. At the end of two years he gave notice, in concert with his trade union, that the prices of work would, from a certain day, be increased twenty per cent., the same as given in Birmingham, and in case of non-compliance he should suspend himself from service. He accordingly ceased to work, and absented himself. He was summoned, and the police magistrate assessed the damages sustained between the absenting and the issuing of the summons at 11*l.* 8*s.*, and ordered the workman to pay that sum and costs. The amount was paid after an order for imprisonment had been drawn up; but the workman did not return to his work, and he was again summoned, when the magistrates ordered him to fulfil the contract, and to enter into his own recognizance and to find two sureties for its fulfilment, and in default of finding security, to be committed to prison for three months, or until he found security. This order was not complied with, and the defendant went to prison. On his liberation he continued to absent himself. The Court of Queen's Bench held, affirming the opinion of the police magistrate, that neither of the above orders was a bar to a third order for damages for a subsequent breach, by reason of the continued absence (c).

(b) 43 L. J., M. C. 124.

(c) *Cutler v. Hague* was a case taken up by the union, and the fact

that the law proved too strong for the workman, was the cause of great dissatisfaction and strong ex-

Although that case was decided under the former and now repealed statute, it appears to be applicable to the Employers and Workmen Act, 1875, subject to this observation, that now there "can be no imprisonment for neglecting to obey an order for performance, as an undertaking to perform must be the voluntary act of the defendant.

*Effect of Order on Proceedings in other Courts.*—On general principles it is clear that when proceedings are instituted under this act, and a decision arrived at, those proceedings will be a bar to any action or suit whether in the superior courts or in the county courts.

So, also, if any disputes have been referred under the

pressions on the part of officers of the union previous to the decision of the Court of Queen's Bench upholding the view I had taken. The facts, as fairly admitted by the secretary of the union in giving evidence before the Royal Commission on Labour Laws, were, that the man was a clever workman, and his employers were very anxious to secure his services for a length of time; that prices in the trade were not raised at Sheffield, and that no evidence was given before the magistrate of a rise elsewhere, and that the loss to the employers was undoubtedly a serious one, and that several other persons would be kept out of work if the defendant's work were not done, and that the magistrate fully investigated the question of actual damage. The secretary stated that the workman was a man of "a very dogged determination," and impressed with the conviction that he was right and the magistrate wrong. (First Report of the Royal Commission on Labour Laws—

Minutes of Evidence.) I was not aware at the time I gave evidence before the Commission of the way in which the decision of myself and other magistrates (for I did not deal with the case on the intermediate hearing) had been spoken of, or I should have entered fully into the matter. The facts above admitted show, I apprehend, that when the secretary of the "Parliamentary Committee of the Trades Union Congress" cited this case of *Cutler v. Hague*, as an illustration "of the injustice and excessive cruelty" of the law, and as "where not only had the man to suffer imprisonment for three months for a morally justifiable act, but he has also had to suffer two subsequent prosecutions for the same offence, to the eternal disgrace of English law" (see Appendix, Part IV., to Second Report of the Labour Law Commission), he wrote (although I fully believe in perfect sincerity) in entire misconception of law and fact.



5 Geo. 4, c. 96, or under "any act extending or amending the same," that reference will be a bar to proceedings under "The Employers and Workmen Act, 1875." It has been expressly held that if a servant has already taken proceedings in the county court for recovery of his wages, or for damages by reason of his discharge, and a judgment has been given against him, he cannot go before the magistrates (*d*).

### § 9. *Apprentices.*

The procedure with regard to apprentices and their masters remains for a concise notice.

The jurisdiction given by the Employers and Workmen Act in disputes between an apprentice and his master is confined to "an apprentice to the business of a workman, as defined by this act (*e*), upon whose binding either no premium is paid, or the premium (if any) paid does not exceed twenty-five pounds, and to an apprentice

(*d*) *Routledge v. Hislop*, 29 L. J. Rep. (N. S.) M. C. 90. In that case a female servant in husbandry, hired for a quarter of a year for 5*l.*, on being discharged before the end of the quarter, immediately sued her master in the county court for 6*l.* 6*s.* 6*d.* damages for discharging her before the determination of the contract. A verdict was given for the defendant, and the servant, after the expiration of the quarter, summoned the master before the magistrates for the full wages, alleging in the summons that she had been discharged without just cause and that she was always ready to complete the service, and that the defendant refused to pay her the wages justly due for the time she was hired, amounting to the sum of 5*l.* The magistrates decided in favour of the

complainant; but, upon a case stated, the Court of Queen's Bench held the judgment in the county court to be a bar to the proceedings before the magistrates, on the ground that the matter for the consideration of the justices was, in truth, the same identical matter which had been decided by the judge of the county court, namely, whether the discharge was wrongful and without cause.

(*e*) What is the meaning of "the business of a workman as defined by this act?" See the definition, *ante*, pp. 110, 111. Probably what is meant is the business of an *employer of a workman* within the meaning of the act, and if this effect is given to the words, some complicated questions may be avoided.

bound under the provisions of the acts relating to the relief of the poor" (*f*).

Disputes between such an apprentice and his master, arising out of or incidental to their relation as such, may be heard and determined by a court of summary jurisdiction (*g*), the court having the same powers as if the dispute were between an employer and a workman; and also the powers to make an order directing the apprentice to perform his duties, and also power when it rescinds the indentures to order the whole or part of the premium to be repaid (*h*).

It seems to be clear, notwithstanding the same powers

(*f*) 38 & 39 Vict. c. 90, s. 12. The act does not extend to apprentices to the sea service, nor does it take away or abridge any local or special jurisdiction touching apprentices. *Id.* s. 13. It would be out of character with a concise sketch of the procedure of the courts of summary jurisdiction to attempt to present a view of the rights of parties under deeds of apprenticeship. The repeal of nearly all the statute law relating to ordinary apprentices (see *post*, pp. 200—205), coupled with the new jurisdiction, will probably give rise to several questions. The only statutes apparently now in force specially relating to other than parish apprentices are 54 Geo. 3, c. 96, and 5 & 6 Vict. c. 7. The only part of the former act of present moment is sect. 3, which enacts that "any justice or justices of the peace may hear and determine any complaints that may arise respecting any apprenticeships in like manner as if they had been made under the act hereby in part repealed" (*viz.* 5 Eliz. c. 4, now wholly repealed). The 5 & 6 Vict. c. 7 (included in the schedule to the Master and Servant Act, 1867

but expressly preserved, see *post*, p. 203), merely recites 20 Geo. 2, c. 19; 33 Geo. 3, c. 55; 4 Geo. 4, c. 29 (all repealed); and 32 Geo. 3, c. 57, relating to parish apprentices, and that doubts had been entertained whether those acts applied where no money was paid on the binding of the apprentice, and enacts that those recited acts shall so apply. As to apprentices to bankrupts, see 32 & 33 Vict. c. 71, *post*, APPENDIX. The effect at common law of instruments of apprenticeship cannot be discussed here. As to the jurisdiction over parish apprentices, some work on the poor laws, where the numerous statutes and cases are collected, must be consulted.

For a general view, historical and legal, of apprenticeships and local privileges, see an excellent and interesting article in the "Penny Cyclopædia."

(*g*) *Id.* s. 5.

(*h*) *Id.* s. 6. See, in the Chancellor's rules, forms of order on apprentice to perform duties, and of order rescinding contract of apprenticeship, *post*, p. 187.

are given as in the case of a workman, that an apprentice's consent to an order for performance and security is not to be asked for or accepted, an order directing performance of duties being with propriety substituted.

It may be also confidently stated in conformity with the effect of previous provisions giving summary jurisdiction in the case of apprentices, that orders for wages or damages may be made after the termination of the apprenticeship in respect of breaches committed during the term (*i*).

*Enforcement of Order for Performance of Duties.*—  
“Where an order is made directing an apprentice to perform his duties under the apprenticeship the court may, from time to time, if satisfied after the expiration of not less than one month from the date of the order that the apprentice has failed to comply therewith, order him to be imprisoned for a period not exceeding fourteen days” (*k*).

The words “from time to time” indicate a power to make an unlimited number of orders of imprisonment after one order for performance. Although the Act and Rules and Forms are silent on the subject, it seems on general principles that the apprentice should be summoned and heard upon any application for an order of imprisonment (*l*).

(*i*) See *The Queen v. Proud*, Law Rep., 1 C. C. R. 71; 36 L. J., M. C. 62. In that case perjury was alleged to have been committed on the hearing of a claim made for wages on an apprenticeship indenture after the termination of the apprenticeship.

An objection was taken that magistrates' jurisdiction under 4 Geo. 4, c. 34, s. 2, applied to the Act of 1867, with respect to differences and complaints between masters and apprentices, was gone when that relation ceased to exist, and that, therefore, he had no jurisdiction to hear and adjudicate upon this complaint. The objection was

overruled. *Martin*, B., observed to counsel during the argument: “Supposing the sum of 5s. to be due for wages for the last week of the service, according to your contention the apprentice cannot go to the justice, but must sue in the county court. The act could not have intended that.”

(*k*) 38 & 39 Vict. c. 90, s. 6. See the Lord Chancellor's rules, for form of order of committal of apprentice, Form No. 13.

(*l*) See *ante*, p. 145, note (*u*), and the next page, as to procedure against a person covenanting in the indenture.



*Procedure against Parent or other Person party to the Indenture.*—The court of summary jurisdiction may direct “any person liable under the instrument of apprenticeship for the good conduct of the apprentice” (meaning, it is to be presumed, a person covenanting to that effect with the master) to be summoned, in like manner as if he were the defendant, to attend the hearing of any proceeding in relation to a dispute between a master and an apprentice. And the court, in addition to or in substitution for any order which the court is authorized to make against the apprentice, may order the person so summoned to pay damages for any breach of the contract of apprenticeship.

The court may accept the security of the person summoned, or any other person, for the performance by the apprentice of “his contract of apprenticeship,” instead of or in mitigation of any punishment which it is authorized to inflict upon the apprentice (*m*).

See forms of application for and summons of “bondsmen” for an apprentice, and also of order on him to pay damages, in the Chancellor’s orders.

The words “instead of or in mitigation of any punishment” indicate the power to summon the third party on an application for an order of imprisonment of the apprentice, for on the original hearing of a dispute the court has no power to inflict any punishment (*n*); and the form of acceptance, given by the orders, confirms this view.

(*m*) 38 & 39 Vict. c. 90, s. 7.

(*n*) See the preceding observations in the text on the enforcement

of an order against an apprentice for the performance of his duties.

## CHAPTER VIII.

PROCEDURE UNDER THE CONSPIRACY AND PROTECTION  
OF PROPERTY ACT, 1875.§ 1. *Offences under the Act.*

THE offences defined and punishable by the Conspiracy and Protection of Property Act, 1875, may be thus shortly stated in the order they occur in the act :

(1.) Wilfully and maliciously breaking a contract of service with a municipal authority or company or contractor having the duty of supplying any city, borough, town or place, or any part thereof, with gas or water, knowing or having reasonable cause to believe that the probable consequences of so doing, either alone or in combination with others, will be to deprive the inhabitants of that city, borough, town, place or part, wholly or to a great extent, of their supply of gas or water (*a*).

(2.) Wilfully and maliciously breaking a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequences of so doing, either alone or in combination with others, will be to endanger human life, *or* cause serious bodily injury, *or* to expose valuable property, whether real or personal, to destruction or serious injury (*b*).

(3.) A master, who being legally liable to provide for his servant or apprentice necessary food, clothing, medical aid or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, whereby the health of the

(*a*) 38 & 39 Vict. c. 86. As to the definition of "municipal authority," "company" and "contractor," see sect. 14; and of municipal au-

thority in Scotland, sect. 18; and Ireland, sect. 21.

(*b*) *Id.* s. 5.

servant or apprentice is or is likely to be seriously or permanently injured (*c*).

(4.) Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority,

1. Uses violence to or intimidates such other person or his wife or children, or injures his property; or
2. Persistently follows such other person about from place to place; or
3. Hides any tools, clothes or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or
4. Watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place (*d*); or
5. Follows such other person with two or more other persons in a disorderly manner, in or through any street or road (*e*).

Of the above four principal classes of offences, the first and second classes may be regarded as in substitution of the fourteenth section of the Master and Servant Act, 1867 (*f*).

The word “maliciously,” used in reference to these offences, is to be construed in the same manner as is required by sect. 58 of the Malicious Injuries to Property Act, 24 & 25 Vict. c. 97, in reference to offences under that act, that is to say, the punishment and forfeiture equally apply “whether the offence shall be committed

(*c*) 38 & 39 Vict. c. 86, s. 6.

(*d*) Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in

order merely to obtain or communicate information, is not a watching or besetting within the meaning of this section.

(*e*) *Id.* s. 6.

(*f*) See *ante*, pp. 20, 93.



from malice conceived against the owner of the property in respect of which it shall be committed or otherwise”(g).

(g) Notwithstanding this interpretation it is probable that questions will be raised as to the precise effect of the word “maliciously” in the Conspiracy and Protection of Property Act, 1875. “Malice, in common acceptation, means ill-will against a person; but, in its legal sense, it means a wrongful act done intentionally without just cause or excuse.” (*Bayley, J., Bromage v. Prosser*, 4 B. & C. 255.) If “maliciously” in the statute is to be read in the “common acceptation” of the word, the interpretation will merely make it immaterial whether the malice was conceived against the owner or against some third person. If it is to be read in the strict legal sense, then the interpretation clause appears to be inoperative or unnecessary. The words “either alone or in combination with others,” seem to point to malice in the “common acceptation” of the word. On the other hand, the words “knowing or having reasonable cause to believe that the probable consequences” will be to produce the mischief of the description mentioned, indicates that it is unnecessary that the probable result should be really present to the mind of the person wilfully breaking his contract. If a strictly legal sense, and not the popular sense, is to be given to the words “wilfully and maliciously,” a larger class of cases will be included within the penal provision. In the former event two workmen drinking by common consent at a public-house during working hours, and having reasonable cause to believe that their absence

will expose valuable property to serious injury, but not contemplating the result or giving it a thought, would be amenable to the law as being guilty of “a wrongful act, done intentionally, without just cause or excuse.” Certainly if human life or limb or valuable property be jeopardized, there seems no moral wrong done in making such reckless conduct punishable as a crime; but can such a case constitute a wilful and malicious breach of contract? Without speculating further on the question, a case recently decided under the 24 & 25 Vict. c. 97, s. 51, may be cited as bearing somewhat upon it. That section makes it a misdemeanor “unlawfully and maliciously” to commit any damage, injury or spoil to any property to an amount exceeding 5*l.*, for which no other punishment is provided.

On an indictment under that section for unlawfully and maliciously committing damage to a window, it appeared that the defendant and others, having been turned out of a public-house for disorderly conduct, fought in the street, and the defendant picked up a large stone and threw it at the persons he had been fighting with, and the stone passing over their heads broke a plate-glass window, and doing damage to an amount exceeding 5*l.* On a finding of the jury that he intended to strike the persons, but not intending to break the window, it was held that the defendant could not be convicted. *Blackburn, J.*, said, “when a person wilfully does an act to the injury of another without any lawful cause, the act is malicious.

The third offence (by a master of a servant or apprentice) is an extension of sect. 26 of the Offences against the Person Consolidation Act, 24 & 25 Vict. c. 100. The chief extension consists in the introduction of “*seriously injured*,” and thus constituting it an offence if health is or is likely to be seriously injured, instead of confining it to an actual or probable *permanent* injury. The neglect of medical aid is also introduced, in addition to necessary food, clothing or lodging.

The fourth class comprises the offences substituted for the repealed Criminal Law Amendment Act, 1871 (*h*).

In addition to the above offences there is another, wholly the creation of the Act of 1875, but connected with offence No. 1. The act requires every municipal authority, company or contractor, upon whom is imposed, by act of parliament, the duty, or who has assumed the duty, of supplying a place with gas or water, to cause to be posted up at the gas or waterworks a printed copy of section 4 of the act in some conspicuous place where it may be conveniently read by the persons employed; and as often as such copy becomes defaced, obliterated or destroyed, to cause it to be renewed with all reasonable despatch. A municipal authority, or company, or contractor making default in relation to such notice, incurs a liability on summary conviction to a penalty not exceeding five pounds for every day during which such default continues; and every person who unlawfully injures, defaces

Here the act was without lawful excuse; but was it wilful? Upon the facts there was evidence upon which the jury might have found if they had been so directed that the act was malicious. If they had found that the prisoner was aware that the window was where it was, and that he was likely to break it, and was reckless whether he did so or not, the case might have been different, but they were not so

directed, and have not so found. They have found that he did not intend to break the window. Therefore I think this conviction must be quashed.” *The Queen v. Pemberton*, Law Rep. 2 C. C. R. 119; 43 L. J., M. C. 91. See further, *The Queen v. Ward*, Law Rep. 1 C. C. R. 356; 41 L. J., M. C. 69; and *post*, p. 274.

(*h*) See *ante*, p. 40, and p. 96.

or covers up any notice so posted up is liable to a penalty of forty shillings (*i*).

It does not appear, however, that the posting up the notice and its preservation are conditions precedent to the facts necessary to create the offence No. 1, nor that any defaults or omissions in these respects operate as an exoneration of that offence.

Besides the offences thus enumerated, and wholly punishable under the act, the law has been altered by making it no longer an offence to conspire to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen, if such act committed by one person would not be punishable as a crime (*k*), and further restrains the sentence of punishment of a person convicted of a conspiracy to do or procure to be done an act punishable only on summary conviction by imprisonment (*l*).

But the alteration of the law in reference to conspiracy does not concern the subject of this chapter (namely, the procedure for offences under the act), and therefore will not be further noticed here (*m*). The same observation applies to a power given by the act to reduce penalties to one fourth in respect of any offence under any act relating to employers or workmen where no such power of reduction is given (*n*).

Attention has been already called to the fact that the four classes of offences are not confined to any particular class of workmen (*o*). There is no restriction to workmen of the classes specified in the Employers and Workmen Act, 1875. Nothing in the act now under consideration applies, however, to seamen or to apprentices to the sea service (*p*).

(*i*) 38 & 39 Vict. c. 86, s. 4.

(*k*) See sect. 3 for certain exceptions, and for the definition of "crime."

(*l*) See sect. 3.

(*m*) See *ante*, Chapter V. pp. 73,

79, and Chapter VI. p. 101, where the scope of the alteration is discussed. See also *post*, p. 282.

(*n*) See sect. 8.

(*o*) See *ante*, pp. 97, 98.

(*p*) 38 & 39 Vict. c. 86, s. 16.



§ 2. *The Tribunal and Mode of deciding Cases.*

All the offences mentioned in the act may be dealt with on summary conviction, subject to the right of defendants as hereafter mentioned in all the four classes of cases already enumerated to be tried by a jury.

The offences of the first, second and fourth classes are punishable by fine not exceeding 20*l.*, or by imprisonment not exceeding three months, with or without hard labour. In the third class, the master is liable to the same penalty, or to imprisonment not exceeding six months, with or without hard labour.

*Court of Summary Jurisdiction.*—The tribunal for summary adjudication in the first, second and fourth classes is a court of summary jurisdiction, constituted precisely as the court of summary jurisdiction under the Employers and Workmen Act, 1875, that is to say:—(1) In the city of London the lord mayor or any alderman sitting at the Mansion House or Guildhall justice room; (2) In any police court division in the metropolitan police district, any metropolitan police magistrate sitting at the police court for the division; (3) In any place or district for which a stipendiary magistrate is for the time being acting, such stipendiary magistrate sitting at a police court or other place appointed in that behalf; (4) Elsewhere any justice or justices of the peace, to whom jurisdiction is given by the Summary Jurisdiction Act: provided that, as respects any case within the cognizance of such justices, an information under the act must be heard and determined by two or more justices sitting at some place appointed for holding petty sessions (*q*).

(*q*) 38 & 39 Vict. c. 86, s. 13. In Scotland “court of summary jurisdiction” means the sheriff of the county or any one of his substi-

tutes (*Id.* s. 18), and in Ireland any justice of the peace or other magistrate to whom jurisdiction is given by the Summary Jurisdiction Act

As to the meaning of a "place appointed for holding petty sessions," the observations made on the same words in the Employers and Workmen Act, 1875, will apply here (*r*).

*Legal Proceedings.*]—It is expressly provided that every offence made punishable by a court of summary jurisdiction or on summary conviction, and every penalty under the act recoverable on summary conviction, may be prosecuted and recovered in manner provided by the Summary Jurisdiction Act (11 & 12 Vict. c. 43), inclusive of any acts amending that act(s). Without this express provision it is clear that Jervis's Acts would apply.

Offences, therefore, will be dealt with upon information laid before a magistrate, and a summons or warrant issued thereon. Although the act does not require the information to be in writing, it is desirable that it should be reduced to writing. In most cases a summons will be issued, and in default of appearance then a warrant to apprehend. In some exceptional cases, however, it may be prudent to issue a warrant in the first instance on a sworn information.

The forms of summons and conviction given by the Summary Jurisdiction Act will require to be somewhat varied to meet the description of the court of summary jurisdiction in those cases that require to be so dealt with.

*Competency of Witnesses.*]—Upon the hearing of any case under sects. 4, 5, and 6 of the act, comprising the

as applied to Ireland (*Id.* s. 21), and constituted as mentioned in that section. In Scotland every offence under the act is to be prosecuted, every penalty recovered, and every order made at the instance of the Lord Advocate, or of the procurator fiscal of the sheriff court. The proceedings may be on indictment

in the Court of Justiciary in Edinburgh, or on circuit, or in a sheriff court, or may be taken summarily in the sheriff court under the provisions of the Summary Procedure Act, 1864.

(*r*) See *ante*, p. 109.

(*s*) 38 & 39 Vict. c. 86, s. 10.

first, second and third of the four classes already mentioned, the parties to the contract of service, and their husbands and wives, are competent witnesses, whether upon summary conviction or indictment as hereinafter mentioned (*t*).

*Objection by Defendant to the Court of Summary Jurisdiction.*—Where any person is accused before a court of summary jurisdiction of any offence made punishable by the act, and for which a penalty amounting to 20*l.* or imprisonment is imposed (*u*), he may, on appearing before the court, declare that he objects to being tried for such offence by a court of summary jurisdiction, “and thereupon the court of summary jurisdiction may deal with the case in all respects as if the accused were charged with an indictable offence punishable on summary conviction, and the offence may be prosecuted on indictment accordingly” (*v*).

This provision, making an offence indictable only at the election of the accused, has been already commented upon (*x*). It must suffice here to state, that although in strictness the objection by the defendant ought to be made immediately on his appearing before the court, yet latitude ought to be given to him to object subsequently, where on his first appearing he had not had any one to advise him, or he was otherwise ignorant of his position. On the other hand, the objection ought to be made before the court (having heard the facts) has expressed an opinion on the merits of the case.

Further, although the objection is to proceed from the

(*t*) 38 & 39 Vict. c. 86, s. 11.  
See the observations, *ante*, pp. 99—101.

(*u*) As the offences under sect. 6 of the act by a master of a servant or apprentice (constituting class (3) as specified in the text), may be dealt with by justices not sitting in divisional petty sessions, it is doubtful whether the right to trial by a jury extends to such cases, for al-

though the court may happen to be constituted as a court of summary jurisdiction is *required* to be on the hearing and determination of other cases, it would be an anomaly that the right could be exercised under those circumstances and not when the justices are sitting in ordinary petty sessions.

(*v*) 38 & 39 Vict. c. 86, s. 9.

(*x*) See *ante*, p. 99.



defendant, it will be a proper course for the court to inform him of the option the law has given him.

If he exercises the option, the complainant should in ordinary cases be asked whether he wishes to prosecute, for as the legislature has not thought fit to allow the costs of the prosecution, it must be taken to be on the notion that these cases are not of sufficient public concern to allow of the costs being properly borne by the public; and therefore the complainant should not be compelled to prosecute against his will, unless in very exceptional cases.

If he elects to prosecute, it is the duty of the court to proceed to hear it as in indictable cases, ordering the accused to be discharged if the court think the evidence is not sufficient to put the accused on his trial; or, on the other hand, committing him for trial if the evidence given raises a strong or probable presumption of guilt; the court applying, of course, all the provisions of Jervis' Act, 11 & 12 Vict. c. 42 (examining the defendant's witnesses under 30 & 31 Vict. c. 53), to the case as are applicable(y).

The warrant of commitment must be carefully framed, so as to show the jurisdiction of the court to commit for trial by reason of the defendant's objection to the summary disposal of the case.

The committal will be in general for trial at the quarter sessions.

In addition to the witnesses examined before the court, and bound over to attend the trial, evidence will be required on the trial, and strictly speaking even before the grand

(y) The act provides that upon the *hearing and determining* of any *indictment* or *information* under sects. 4, 5 and 6 of the act (forming the first three classes of the division mentioned in the text), the parties to the contract of service, their husbands or wives, shall be deemed and considered as competent witnesses. It may be doubted

whether this extends to what is commonly termed "the examination" of the accused person before the justices for the indictable offence. At all events it is clear it does not supersede the duty of the court to take the statement of the accused in the ordinary way according to Jervis' Act, 11 & 12 Vict. c. 42.

jury, of the proceedings before the court of summary jurisdiction (and it may be of its due constitution), and of the objection made by the defendant. Unless the indictment is prepared by the prosecutor's counsel, copies of the information, summons or warrant of apprehension, and of the warrant of commitment, should accompany the depositions, to enable the officer of the court to prepare the indictment.

For reasons given elsewhere, it is probable that these prosecutions will be of rare occurrence (*z*).

*Appeal.*—An appeal to the quarter sessions is given (in England or Ireland) (*a*) by a court of summary jurisdiction against any conviction on any information under the act in the mode specified by the act, with power to the court of appeal not only to confirm, reverse or modify the decision of the court of summary jurisdiction, but to remit the matter to that court with the opinion of the court of appeal thereon, or make such other order as that court thinks just. If the matter be remitted, the court of summary jurisdiction is to rehear and decide the information in accordance with the opinion of the court of appeal. The court of appeal may make such order as to costs to be paid by either party as it thinks just (*b*).

*Case for Opinion of a Superior Court.*—A case may be applied for and stated on any point of law arising on any information under the act, pursuant to the statute 20 & 21 Vict. c. 43.

(*z*) See *ante*, p. 102, note (*v*).

(*a*) In Scotland the appeal is to the next circuit Court of Justiciary, or where there are no circuit courts to the High Court of Justiciary at Edinburgh, as under 20 Geo. 2, c. 43, as amended by act of parliament (38 & 39 Vict. c. 86, s. 20).

(*b*) 38 & 39 Vict. c. 86, s. 12.

The Court of Quarter Sessions has no power to order the justices forming the court of summary jurisdiction (who although made respondents as nominal parties, take no part in the appeal) to pay the costs. *The Queen v. Goodall*, 43 L. J., M. C. 119.

38 &amp; 39 VICT. c. 90.

*An Act to enlarge the powers of County Courts in respect of disputes between Employers and Workmen, and to give other Courts a limited civil jurisdiction in respect of such disputes.* [13th August, 1875.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*Preliminary.*

Short title.      1. This act may be cited as the Employers and Workmen Act, 1875.

Commence-  
ment of act.      2. This act, except so far as it authorizes any rules to be made or other thing to be done at any time after the passing of this act, shall come into operation on the first day of September, one thousand eight hundred and seventy-five.

PART I.

*Jurisdiction—Jurisdiction of County Court.*

Power of  
county court as  
to ordering of  
payment of  
money, set-off,  
and rescission  
of contract and  
taking secu-  
rity.      3. In any proceeding before a county court (a) in relation to any dispute between an employer and a workman arising out of or incidental to their relation as such (which dispute is hereinafter referred to as a dispute under this act) the court may, in addition to any jurisdiction it might have exercised if this act had

(a) In Scotland, the ordinary Sheriff Court of the county; in Ireland, Civil Bill Court.



not passed, exercise all or any of the following powers; that is to say,

- (1.) It may adjust and set off the one against the other all such claims on the part either of the employer or of the workman, arising out of or incidental to the relation between them, as the court may find to be subsisting, whether such claims are liquidated or unliquidated, and are for wages, damages, or otherwise (*b*); and,
- (2.) If, having regard to all the circumstances of the case, it thinks it just to do so, it may rescind any contract between the employer and the workman upon such terms as to the apportionment of wages or other sums due thereunder, and as to the payment of wages or damages, or other sums due, as it thinks just; and,
- (3.) Where the court might otherwise award damages for any breach of contract it may, if the defendant be willing to give security to the satisfaction of the court for the performance by him of so much of his contract as remains unperformed, with the consent of the plaintiff, accept such security, and order performance of the contract accordingly, in place either of the whole of the damages which would otherwise have been awarded, or some part of such damages.

The security shall be an undertaking by the defendant and one or more surety or sureties that the defendant will perform his contract, subject on non-performance to the payment of a sum to be specified in the undertaking (*c*).

Any sum paid by a surety on behalf of a defendant in respect of a security under this act, together

(*b*) See *post*, sect. 11, and 1 & 2 W. 4, c. 37, and 37 & 38 Vict.

c. 48, *post*, APPENDIX, and the observations on those acts.

(*c*) See *post*, sect. 8.

with all costs incurred by such surety in respect of such security, shall be deemed to be a debt due to him from the defendant; and where such security has been given in or under the direction of a court of summary jurisdiction, that court may order payment to the surety of the sum which has so become due to him from the defendant (*d*).

*Court of Summary Jurisdiction.*

Jurisdiction of justices in disputes between employers and workmen.

4. A dispute under this act between an employer and a workman may be heard and determined by a court of summary jurisdiction (*e*), and such court, for the purposes of this act, shall be deemed to be a court of civil jurisdiction, and in a proceeding in relation to any such dispute the court may order payment of any sum which it may find to be due as wages, or damages, or otherwise, and may exercise all or any of the powers by this act conferred on a county court: provided that in any proceeding in relation to any such dispute the court of summary jurisdiction—

- (1.) Shall not exercise any jurisdiction where the amount claimed exceeds ten pounds; and
- (2.) Shall not make an order for the payment of any sum exceeding ten pounds, exclusive of the costs incurred in the case, and
- (3.) Shall not require security to an amount exceeding ten pounds from any defendant or his surety or sureties.

Jurisdiction of justices in disputes between

5. Any dispute between an apprentice to whom this act applies (*f*) and his master, arising out of or in-

(*d*) As to the procedure relating to orders of performance and security, see *ante*, pp. 132, 144; and as to the changes effected by the act on such orders, see *ante*, pp. 86—92.

(*e*) For the constitution of courts of summary jurisdiction, see sect. 10; in Scotland, sect. 14; and in Ireland, sect. 15.

(*f*) See *post*, sect. 12.

cidental to their relation as such, (which dispute is hereinafter referred to as a dispute under this act,) may be heard and determined by a court of summary jurisdiction.

masters and apprentices.

6. In a proceeding before a court of summary jurisdiction in relation to a dispute under this act between a master and an apprentice, the court shall have the same powers as if the dispute were between an employer and a workman, and the master were the employer and the apprentice the workman, and the instrument of apprenticeship a contract between an employer and a workman, and shall also have the following powers:

Powers of justices in respect of apprentices.

- (1.) It may make an order directing the apprentice to perform his duties under the apprenticeship; and,
- (2.) If it rescinds the instrument of apprenticeship it may, if it thinks it just so to do, order the whole or any part of the premium paid on the binding of the apprentice to be repaid.

Where an order is made directing an apprentice to perform his duties under the apprenticeship, the court may, from time to time, if satisfied after the expiration of not less than one month from the date of the order that the apprentice has failed to comply therewith, order him to be imprisoned for a period not exceeding fourteen days.

7. In a proceeding before a court of summary jurisdiction in relation to a dispute under this act between a master and an apprentice, if there is any person liable, under the instrument of apprenticeship, for the good conduct of the apprentice, that person may, if the court so direct, be summoned in like manner as if he were the defendant in such proceeding to attend on the hearing of the proceeding, and the court may, in addition to or in substitution for any order which the court

Order against surety of apprentice, and power to friend of apprentice to give security.



is authorized to make against the apprentice, order the person so summoned to pay damages for any breach of the contract of apprenticeship to an amount not exceeding the limit (if any) to which he is liable under the instrument of apprenticeship.

The court may, if the person so summoned, or any other person, is willing to give security to the satisfaction of the court for the performance by the apprentice of his contract of apprenticeship, accept such security instead of or in mitigation of any punishment which it is authorized to inflict upon the apprentice (*g*).

## PART II.

### *Procedure.*

Mode of  
giving secu-  
rity.

8. A person may give security under this act in a county court or court of summary jurisdiction by an oral or written acknowledgment in or under the direction of the court of the undertaking or condition by which and the sum for which he is bound, in such manner and form as may be prescribed by any rule for the time being in force, and in any case where security is so given, the court in or under the direction of which it is given may order payment of any sum which may become due in pursuance of such security.

The Lord Chancellor may at any time after the passing of this act, and from time to time make, and when made, rescind, alter, and add to, rules with respect to giving security under this act.

Summary  
proceedings

9. Any dispute or matter in respect of which jurisdiction is given by this act to a court of summary jurisdiction shall be deemed to be a matter on which that court has authority by law to make an order on

(*g*) As to the procedure relating to apprentices, see *ante*, p. 150, and see *ante*, pp. 84, 85,

as to the origin of this new provision for summoning third persons parties to the indenture.

complaint in pursuance of the Summary Jurisdiction Act (*h*), but shall not be deemed to be a criminal proceeding; and all powers by this act conferred on a court of summary jurisdiction shall be deemed to be in addition to and not in derogation of any powers conferred on it by the Summary Jurisdiction Act, except that a warrant shall not be issued under that act for apprehending any person other than an apprentice for failing to appear to answer a complaint in any proceeding under this act, and that an order made by a court of summary jurisdiction under this act for the payment of any money shall not be enforced by imprisonment except in the manner and under the conditions by this act provided; and no goods or chattels shall be taken under a distress ordered by a court of summary jurisdiction which might not be taken under an execution issued by a county court (*i*).

A court of summary jurisdiction may direct any sum of money, for the payment of which it makes an order under this act, to be paid by instalments, and may from time to time rescind or vary such order.

Any sum payable by any person under the order of a court of summary jurisdiction in pursuance of this act, shall be deemed to be a debt due from him in pursuance of a judgment of a competent court within the meaning of the fifth section of the Debtors Act, 1869 (*k*), and may be enforced accordingly; and as regards any such debt a court of summary jurisdiction shall be deemed to be a court within the meaning of the said section.

The Lord Chancellor may at any time after the passing of this act, and from time to time make, and when made, rescind, alter, and add to, rules for carrying into effect the jurisdiction by this act given to a court of summary jurisdiction, and in particular for the purpose of regulating the costs of any proceedings in a

(*h*) See sect. 10, *infra*.

p. 140.

(*i*) See the distinction, *ante*,

(*k*) See *ante*, p. 142.

court of summary jurisdiction, with power to provide that the same shall not exceed the costs which would in a similar case be incurred in a county court (*l*), and any rules so made in so far as they relate to the exercise of jurisdiction under the said fifth section of the Debtors Act, 1869, shall be deemed to be prescribed rules within the meaning of the said section (*m*).

### PART III.

#### *Definitions and Miscellaneous.*

##### *Definitions.*

Definitions:

10. In this act—

“Workman:”

The expression “workman” does not include a domestic or menial servant, but save as aforesaid, means any person who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer, whether the contract be made before or after the passing of this act, be express or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour (*n*).

“The Summary Jurisdiction Act.”

The expression “the Summary Jurisdiction Act” means the act of the session of the eleventh and twelfth years of the reign of her present Majesty, chapter forty-three, intituled “An Act to facilitate the performance of the duties of Justices of the Peace out of sessions within England and Wales with respect to summary convictions and orders,” inclusive of any acts amending the same.

(*l*) See the Lord Chancellor’s Rules, *post*, p. 175. *ante*, p. 143.

(*n*) See this definition examined, *ante*, pp. 110—116.



The expression "court of summary jurisdiction" means—

- (1.) As respects the city of London, the lord mayor or any alderman of the said city sitting at the Mansion House or Guildhall justice room; and
- (2.) As respects any police court division in the metropolitan police district, any metropolitan police magistrate sitting at the police court for that division; and
- (3.) As respects any city, town, liberty, borough, place, or district for which a stipendiary magistrate is for the time being acting, such stipendiary magistrate sitting at a police court or other place appointed in that behalf; and
- (4.) Elsewhere any justice or justices of the peace to whom jurisdiction is given by the Summary Jurisdiction Act: provided that, as respects any case within the cognizance of such justice or justices as last aforesaid, a complaint under this act shall be heard and determined and an order for imprisonment made by two or more justices of the peace in petty sessions sitting at some place appointed for holding petty sessions (o).

Nothing in this section contained shall restrict the jurisdiction of the lord mayor or any alderman of the city of London, or of any metropolitan police or stipendiary magistrate in respect of any act or jurisdiction which may now be done or exercised by him out of court.

11. In the case of a child, young person, or woman subject to the provisions of the Factory Acts, 1833 to 1874, any forfeiture on the ground of absence or leaving work shall not be deducted from or set off against a claim for wages or other sum due for work done before such absence or leaving work, except to the

Set off in case of factory workers.

(o) See *ante*, pp. 108, 109.

amount of the damage (if any) which the employer may have sustained by reason of such absence or leaving work (*p*).

*Application.*

Application to apprentices.

**12.** This act in so far as it relates to apprentices shall apply only to an apprentice to the business of a workman as defined by this act (*q*) upon whose binding either no premium is paid, or the premium (if any) paid does not exceed twenty-five pounds, and to an apprentice bound under the provisions of the acts relating to the relief of the poor.

*Saving Clause.*

Saving of special jurisdiction, and seamen.

**13.** Nothing in this act shall take away or abridge any local or special jurisdiction touching apprentices.

This act shall not apply to seamen or to apprentices to the sea service.

PART IV.

*Application of Act to Scotland.*

Application to Scotland.

**14.** This act shall extend to Scotland, with the modifications following; that is to say,

Definitions.

In this act with respect to Scotland—

The expression “county court” means the ordinary sheriff court of the county:

The expression “the court of summary jurisdiction” means the small debt court of the sheriff of the county:

The expression “sheriff” includes sheriff substitute:

The expression “instrument of apprenticeship” means indenture:

The expression “plaintiff” or “complainant” means pursuer or complainer:

(*p*) See on this subject 37 & 38 Vict. c. 48, *post*, APPENDIX; and

*Wallis v. Thorp*, 44 L. J., Q. B. 137, there noticed.

(*q*) See *ante*, p. 150 (*e*).

The expression “defendant” includes defender or respondent :

The expression “the Summary Jurisdiction Act” means the act of the seventh year of the reign of his Majesty King William the Fourth and the first year of the reign of her present Majesty, chapter forty-one, intituled “An Act for the more effectual recovery of small debts in the Sheriff Courts, and for regulating the establishment of circuit courts for the trial of small debt causes by the sheriffs in Scotland,” and the acts amending the same.

The expression “surety” means cautioner.

This act shall be read and construed, as if for the expression “the Lord Chancellor,” wherever it occurs therein, the expression “the Court of Session by act of sederunt” were substituted.

All jurisdictions, powers and authorities necessary for the purposes of this act are hereby conferred on sheriffs in their ordinary or small debt courts, as the case may be, who shall have full power to make any order on any summons, petition, complaint or other proceeding under this act, that any county court or court of summary jurisdiction is empowered to make on any complaint or other proceeding under this act.

Any decree or order pronounced or made by a sheriff under this act shall be enforced in the same manner and under the same conditions in and under which a decree or order pronounced or made by him in his ordinary or small debt court, as the case may be, is enforced.

## PART V.

### *Application of Act to Ireland.*

15. This act shall extend to Ireland, with the modifications following; that is to say, Application to Ireland.

The expression “county court” shall be construed to mean civil bill court :



The expression " Lord Chancellor " shall be construed to mean the Lord Chancellor of Ireland: The expression " the Summary Jurisdiction Act " shall be construed to mean, as regards the police district of Dublin metropolis, the acts regulating the powers and duties of justices of the peace for such district, and elsewhere in Ireland, the Petty Sessions (Ireland) Act, 1851, and any acts amending the same :

The expression " court of summary jurisdiction " shall be construed to mean any justice or justices of the peace or other magistrate to whom jurisdiction is given by the Summary Jurisdiction Act :

The court of summary jurisdiction, when hearing and determining complaints under this act, shall in the police district of Dublin metropolis be constituted of one or more of the divisional justices of the said district, and elsewhere in Ireland of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions :

The expression " fifth section of the Debtors Act, 1869," shall be construed to mean " sixth section of Debtors Act (Ireland), 1872."

## RULES

*For carrying into effect the jurisdiction given to Court of Summary Jurisdiction in England by the Employers and Workmen Act, 1875, 38 & 39 Vict. c. 90 (a).*

1. A person desirous to enter an action under the Employers and Workmen Act, 1875, shall deliver to the clerk of the court particulars in writing of his cause of action, and the clerk of the court shall enter in a book to be kept for this purpose in his office a plaint in writing, stating the names and the last known places of abode of the parties, and the substance of the action intended to be brought; and thereupon a summons shall be issued according to the form in the schedule, and be served on the defendant, not less than one clear day before the day on which the court shall be holden at which the cause is to be tried; and no misnomer or inaccurate description of any person or place in any such plaint or summons shall vitiate the same, so that the person or place be therein described so as to be commonly known.

2. The particulars shall be annexed to and be deemed part of the summons.

3. Such summons may issue in any district in which the defendant or one of the defendants dwelt or carried on his business or was employed at the time the cause of action arose (b).

4. Any summons which may be required to be served out of the district of the court from which the same

(a) See the authority for making these rules in sects. 8 and 9 and *ante*, pp. 109, 110.

(b) See observations, *ante*, pp. 122, 123.

shall have issued, may be served by an officer of any other court of summary jurisdiction, which service shall be proved by affidavit of the officer who served the summons.

5. The service of the summons shall be either personal, or by delivering the same to some person apparently sixteen years old, at the house or place of dwelling or place of business or of employment of the defendant, or at the office of the employer for the time being of the defendant.

### *Hearing.*

6. No notice shall be required to be given by a defendant of any set-off or counter claim that he may wish to advance at the hearing against the claim of the plaintiff.

7. If upon the day of the return of any summons, or at any continuation or adjournment of the said court, the plaintiff shall not appear, the cause shall be struck out, and the court may award to the defendant, by way of costs and satisfaction for his attendance, such sum as it in its discretion shall think fit.

8. If on the day named in the summons, or at any continuation or adjournment of the court, the defendant shall not appear, or sufficiently excuse his absence, or shall neglect to answer when called in court, the court, upon due proof of service of the summons, may either adjourn the cause from time to time or proceed to the hearing of the cause on the part of the plaintiff only, and the judgment thereupon shall be as valid as if both parties had attended; provided that the court in any such case, at the same or any subsequent court, may set aside any judgment so given in the absence of the defendant, and the execution thereupon, and may grant a new trial upon such terms, if any, as it may think fit.



*Judgment Summons.*

9. No order of commitment under the Debtors Act, 1869 (*c*), shall be made unless a summons to appear and be examined on oath, hereinafter called a judgment summons, shall have been personally served upon the judgment debtor, which service where made out of the district shall be proved by affidavit.

10. A judgment summons may issue although no distress warrant has been applied for.

11. Every judgment summons shall be according to the form in the schedule, and be served not less than two clear days before the day on which the judgment debtor is required to appear, except the judgment debtor is stated to be about to remove, or is keeping out of the way to avoid service.

12. The hearing of a judgment summons may be adjourned from time to time.

13. Any witness may be summoned to prove the means of the judgment debtor, in the same manner as witnesses are summoned to give evidence upon the hearing of a plaint.

14. An order of commitment made under the Debtors Act, 1869, shall be according to the form in the schedule, and shall, on whatever day it may be issued, bear date on the day on which the order for commitment was made, and shall continue in force for one year from such date and no longer.

15. When an order of commitment for non-payment of money is issued, the defendant may, at any time before his body is delivered into the custody of the gaoler, pay to the officer holding such order the amount indorsed thereon as that on the payment of which he may be discharged; and on receiving such amount the officer shall discharge the defendant, and shall forthwith pay over the amount to the clerk of the court.

(*c*) See *ante*, p. 142.

16. The sum indorsed on the order of commitment as that upon payment of which the prisoner may be discharged may be paid to the clerk of the court from which the commitment order was issued, or to the gaoler in whose custody the prisoner is. Where it is paid to the clerk, he shall sign and seal a certificate of such payment, and upon receiving such certificate by post or otherwise, the gaoler in whose custody the prisoner shall then be shall forthwith discharge such prisoner. And where it is paid to the gaoler, he shall, upon payment to him of such amount, together with costs sufficient to pay for transmitting by post office order or otherwise such amount to the court under the order of which the prisoner was committed, sign a certificate of such payment, and discharge the prisoner.

17. A certificate of payment by a prisoner shall be according to the form in the schedule.

18. All costs incurred by the plaintiff in endeavouring to enforce an order shall be deemed to be due in pursuance of such order under section 5 of the Debtors Act, 1869, unless the court shall otherwise order.

#### *Costs.*

19. The costs to be paid in the first instance by every person seeking the assistance of the court shall be those contained in the Schedule B. to these Rules annexed.

20. The court may, in its discretion, allow any party, in respect of any expense he may have incurred in the employment of a solicitor, any sum not exceeding ten shillings where the sum claimed exceeds forty shillings, and not exceeding fifteen shillings where it exceeds five pounds.

#### *Forms.*

21. The forms given in the schedule shall be used, with such variations as may be necessary to meet the circumstances of each court.

13th August, 1875.

CAIRNS, C.

## SCHEDULE.

### 1.

#### SUMMONS TO APPEAR.

*Employers and Workmen Act, 1875.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
[address, description,]  
and  
C. D., defendant,  
[address, description.]

You are hereby summoned to appear on the      day of      ,  
18      , at the hour of      in the      noon, at      , before  
[two of such justices of the peace for the above county as might there  
be], to answer the plaintiff, to a claim, the particulars of which  
are hereunto annexed.

Given under my hand and seal this      day of      , 18      .  
J. S. (L.S.)

NOTE.—(This, and all other summonses issued under the Em-  
ployers and Workmen Act, 1875, may be signed by the clerk to  
the justices, where such justices shall, by a general direction, au-  
thorize their clerks to sign them in lieu of one of themselves.) (d)

### 2.

#### SUMMONS TO WITNESS.

*Employers and Workmen Act, 1875.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
and  
C. D., defendant.

You are hereby required to attend at      on      the  
day of      , 187      , at the hour of      in the      noon, to  
give evidence in the above cause on behalf of the [plaintiff or  
defendant, as the case may be].

Given under my hand and seal this      day of      , 187      .  
J. S. (L.S.)

To

(d) See observation ante, pp. 125, 126.



## 3.

## JUDGMENT FOR PLAINTIFF.

*Employers and Workmen Act, 1875.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,

and

C. D., defendant.

It is this day adjudged that the plaintiff do recover against the defendant the sum of £ for debt [or damages], and £ for costs, amounting together to the sum of £ .

And it is ordered that the defendant do pay the same to the plaintiff on or before the day of [or by instalments of for every days; the first instalment to be paid on or before the day of , 18 ]; and if the same be not paid as ordered, it is hereby further ordered that the same be levied by distress and sale of the goods and chattels of the said defendant.

Given under our hands and seals this day of

*Signatures of two of the justices* } J. S. (L.S.)  
*by whom order made.* } J. S. (L.S.)

## 4.

## JUDGMENT FOR DEFENDANT.

*Employers and Workmen Act, 1875.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,

and

C. D., defendant.

Upon hearing this cause this day, it is adjudged that judgment be entered for the defendant, and that the plaintiff do pay the sum of £ for the defendant's costs on or before the day of ; and if the same be not paid as ordered it is hereby further ordered that the same be levied by distress and sale of the goods and chattels of the said plaintiff.

Given under our hands and seals this day of , 187 .

*Signatures of two of the justices* } J. S. (L.S.)  
*by whom order made.* } J. S. (L.S.)

5.

JUDGMENT SUMMONS.

*Employers and Workmen Act, 1875, and the Debtors Act, 1869.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
[address, description,]  
and  
C. D., defendant,  
[address, description.]

Whereas the plaintiff [or defendant] obtained an order against you the above-named defendant [or plaintiff] in this court on the day of , 187 , for the payment of pounds, shillings and pence.

And whereas you have made default in payment of the sum payable in pursuance of the said order.

You are therefore hereby summoned to appear personally in this court at [place where court holden], on the day of , 187 , at the hour of in the noon, to be examined on oath by the court touching the means you have or have had since the date of the order to satisfy the sum payable in pursuance of the said order; and also to show cause why you should not be committed to prison for such default.

Given under my hand and seal this day of , 187 .  
J. S. (L.S.)

£ s. d.

Amount of order and costs . . . . .

Costs of distress against the goods, if any . . . . .

£ s. d.

Deduct { Paid into court . . . . .  
Instalments which were not re-  
quired to have been paid be-  
fore the date of the summons .

Sum payable . . . . .

Costs of this summons . . . . .

Amount upon the payment of which no further pro-  
ceedings will be had until default in payment of  
next instalment . . . . .

## 6.

## ORDER OF COMMITMENT.

*Employers and Workmen Act, 1875, and the Debtors Act, 1869.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
and  
C. D., defendant.

To the constable of and all other peace officers of the county, and to the governor or keeper of the [*prison of the county to which debtors are committed*].

Whereas the plaintiff [*or defendant*] obtained an order against the defendant [*or plaintiff*] in this court on the day of , 187 , for the payment of £ .

And whereas the defendant hath made default in payment of , payable in pursuance of the said order.

And whereas a summons was, at the instance of the plaintiff [*or defendant*] duly issued out of this court, by which the defendant [*or plaintiff*] was required to appear personally at this court on the day of , 187 , to be examined on oath touching the means he had then or had had since the date of the order to satisfy the sum then due and payable in pursuance of the order; and to show cause why he should not be committed to prison for such default.

And whereas, at the hearing of the said summons, the defendant [*or plaintiff*] appeared [*or the summons was proved to have been personally and duly served*] and it has now been proved to the satisfaction of the court that the defendant [*or plaintiff*] now has [*or has had*] since the date of the order the means to pay the sum then due and payable in pursuance of the order, and has refused [*or neglected*] [*or then refused or neglected*] to pay the same, and the defendant [*or plaintiff*] has shown no cause why he should not be committed to prison.

Now, therefore, it is ordered that, for such default as aforesaid, the defendant [*or plaintiff*] shall be committed to prison for days, unless he shall sooner pay the sum stated below as that upon the payment of which he is to be discharged.

These are, therefore, to require you, the said constable and peace officers, to take the defendant [*or plaintiff*] and to deliver him to the governor or keeper of the [*prison aforesaid*], and you the said governor or keeper to receive the defendant [*or plaintiff*] and him safely keep in the said prison for days from the



arrest under this order, or until he shall be sooner discharged by due course of law.

Given under our hands and seals this [insert date of order] day of \_\_\_\_\_, 187 .

Signatures of two of the justices } J. S. (L.S.)  
by whom order made. } J. S. (L.S.)

£ s. d.

Total sum payable at the time of hearing of the judgment summons . . . . .	
Hearing of summons, and cost of order . . . . .	
	<hr/>
Total sum upon payment of which the prisoner will be discharged . . . . .	
	<hr/> <hr/>

7.

CERTIFICATE FOR THE DISCHARGE OF A PRISONER FROM CUSTODY.

Employers and Workmen Act, 1875, and the Debtors Act, 1869.

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
and  
C. D., defendant.

I hereby certify that the defendant [or plaintiff] who was committed to your custody by virtue of an order of commitment under the seals of two justices of this court, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 187 , has paid and satisfied the sum of money for the non-payment whereof he was so committed, together with all costs due and payable by him in respect thereof; and that the defendant [or plaintiff] may, in respect of such order, be forthwith discharged out of your custody.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 187 .

Clerk of the court.

To the governor or keeper of \_\_\_\_\_.

## 8.

WARRANT OF DISTRESS FOR PAYMENT OF MONEY BY  
PLAINTIFF.*Employers and Workmen Act, 1875.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
and  
C. D., defendant.

Whereas at a court holden at        on the        day of        , 187    , it was ordered by the court that judgment should be entered for the defendant, and that the plaintiff should pay to the defendant, on or before the        day of        , the sum of £        for the defendant's costs of suit; and that if the same were not paid as ordered, it was further ordered that the same should be levied by distress and sale of the goods and chattels of the said plaintiff.

And whereas default has been made in payment according to the said order. These are therefore to command you forthwith to make distress of the goods and chattels of the plaintiff (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum of £        , being the amount due to the defendant under the said order, together with the reasonable charges for taking and keeping the said distress; and that you do pay what you shall have so levied to the clerk of this court.

Given under my hand and seal this        day of        , 187    .

J. S. (L.S.)

To the constable of        , and all other  
peace officers in the county.

NOTICE.—The goods and chattels are not to be sold until after the end of five clear days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said plaintiff.

---

9.

WARRANT OF DISTRESS FOR PAYMENT OF MONEY BY  
DEFENDANT.

*Employers and Workmen Act, 1875.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
and  
C. D., defendant.

Whereas on the       day of       187 , the plaintiff obtained a judgment in this court against the defendant for the sum of £       ; and it was thereupon ordered by the court that the defendant should pay the same to the plaintiff on the       day of       [or by instalments of       for every       days]; and that if the same were not paid as ordered, it was further ordered that the same should be levied by distress and sale of the goods and chattels of the said defendant :

And whereas default has been made in payment according to the said order : These are therefore to command you forthwith to make distress of the goods and chattels of the defendant (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum of £       , being the amount due to the plaintiff under the said order, together with the reasonable charges of taking and keeping the said distress ; and that you do pay what you shall have so levied to the clerk of this court.

Given under my hand and seal this       day of       187 .

J. S. (L.S.)

To the constable of       , and all other peace  
officers in the county of       .

NOTICE.—The goods and chattels are not to be sold until after the end of five clear days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the defendant.

---



## 10.

UNDERTAKING IN WRITING BY DEFENDANT TO PERFORM  
CONTRACT.*Employers and Workmen Act, 1875.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
and  
C. D., defendant.

Whereas it has been found by this court on the       day  
of       187 , that the defendant had broken the contract for  
the breach of which he was summoned :

And whereas the court would have awarded to the plaintiff the  
sum of £       by way of damages suffered by him in conse-  
quence of such breach, and would have ordered him to have paid  
such sum, but that the defendant was willing to give security for  
the performance by him of so much of the contract as remains un-  
performed :

Now therefore I the undersigned defendant, and we the under-  
signed sureties [or the undersigned surety], do undertake that  
the said defendant will perform so much of the said contract as  
remains unperformed, that is to say, [*here set out so much of the  
contract as remains to be performed*] :

And I the said defendant, and we [or I] the said sureties [or  
surety], hereby severally acknowledge ourselves bound to forfeit  
to A. B., the plaintiff, the sum of       pounds and       shillings,  
in case the said defendant fails to perform what he has hereby  
undertaken to perform.

(Signed *where not taken orally*) C. D., Defendant.E. F., } Sureties.  
G. H., }

Taken [orally] before me this       day of       187 .

J. S. (L.S.)

NOTE.—Where the undertaking is given orally, strike out the  
words “undersigned” where they occur, and insert the word  
“orally” after “Taken.”

---

11.

ORDER ON AN APPRENTICE TO PERFORM HIS DUTIES.

*Employers and Workmen Act, 1875.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
and  
C. D., defendant.

It is ordered that the defendant do forthwith perform the duties he has contracted to perform under his apprenticeship to the plaintiff.

Given under our hands and seals this . day of , 187 .

*Signatures of two of the justices* } J. S. (L.S.)  
*by whom order made.* } J. S. (L.S.)

12.

ORDER RESCINDING A CONTRACT OF APPRENTICESHIP.

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
and  
C. D., defendant.

It is adjudged that the instrument of apprenticeship made between the plaintiff and defendant be rescinded, and that the plaintiff [or defendant] do pay to M. N. of the sum of pounds, being the whole [or a part] of the premium paid by the said M. N. on the binding of the defendant [or plaintiff] as apprentice to the plaintiff [or defendant].

Given under our hands and seals this . day of , 187 .

*Signatures of two of the justices* } J. S. (L.S.)  
*by whom order made.* } J. S. (L.S.)

## 13.

## COMMITTAL OF AN APPRENTICE.

*Employers and Workmen Act, 1875.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
and

C. D., defendant.

To the constable of and all other the peace officers of .

Whereas on the day of , 187 , it was ordered that the defendant should forthwith perform the duties he had contracted to perform under his contract of apprenticeship to the plaintiff :

And whereas it hath been made to appear to the satisfaction of the court on the oath of the plaintiff [and of G. H. of ] that the defendant has failed to comply with the requirements of the said order :

Now, therefore, it is ordered that the said defendant be committed to prison for days.

These are therefore to require you the constable of and others to take the defendant and deliver him to the governor or keeper of the [prison ], and you the said governor or keeper to receive the defendant and him safely keep in the said prison for days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Given under our hands and seals this day of , 187 .

*Signatures of two of the justices } J. S. (L.S.)  
by whom order made. } J. S. (L.S.)*

## 14.

## ACCEPTANCE OF SECURITY FOR PERFORMANCE OF CONTRACT BY AN APPRENTICE.

*Employers and Workmen Act, 1875.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
andC. D., defendant,  
and

E. F., bondsman under the contract of apprenticeship of the defendant.

Whereas on the day of , 187 , it was ordered that the defendant should forthwith perform the duties he had con-



tracted to perform under his contract of apprenticeship to the plaintiff :

And whereas it hath been made to appear to the satisfaction of the court on the oath of the plaintiff [and of G. H. of ] that the defendant has failed to comply with the requirements of the said order :

And whereas by the said failure the defendant hath rendered himself liable to be committed :

And whereas E. F. [or R. S. of ] is willing to give security to the amount of pounds for the due performance by the defendant for his duties under his said contract of apprenticeship :

Now, therefore, the court doth direct such security to be forthwith given, and doth order that if payment of the said sum be not made on the defendant failing to perform his contract such sum may be levied by distress of the goods and chattels of the said E. F. [or R. S.], or an application be made to this court for commitment of the said E. F. [or R. S.] according to the provisions of this act.

Given under our hands and seals this day of , 187 .

*Signatures of two of the justices } J. S. (L.S.)  
by whom order made. } J. S. (L.S.)*

# 15.

## APPLICATION FOR THE SUMMONING OF A BONDSMAN FOR AN APPRENTICE.

### *Employers and Workmen.*

In the [county of . Petty sessions district of .]

Between A. B., plaintiff,  
and  
C. D., defendant.

The plaintiff in this case applies to the court to direct that E. F., of , who is liable under the instrument of the apprenticeship of the defendant to the plaintiff for the good conduct of the defendant as apprentice to the plaintiff, be summoned to attend at the hearing of the proceeding.

Signed A. B., plaintiff.

It is hereby directed by the court that E. F. be summoned accordingly.

Given under my hand and seal this day of , 187 .

J. S. (L.S.)

## 16.

## SUMMONS TO A BONDSMAN FOR AN APPRENTICE.

*Employers and Workmen Act, 1875.*In the [*county of* . *Petty sessions district of* .]

To E. F. of

Take notice that you are hereby summoned to attend at  
 on the            day of            , 187 , at            o'clock in the  
 noon, to show cause why the court should not, in addition to or  
 in substitution for any order to be made against the said de-  
 fendant, order you to pay the amount of any damages which it  
 may find that the plaintiff has suffered in consequence of the  
 breach of the contract of apprenticeship made between you and  
 the plaintiff and the defendant.

Given under my hand and seal this            day of            , 187 .

J. S. (L.S.)

## 17.

ORDER ON A BONDSMAN FOR AN APPRENTICE TO PAY  
DAMAGES.*Employers and Workmen Act, 1875.*In the [*county of* . *Petty sessions district of* .]

Between A. B., plaintiff,

and

C. D., defendant,

and

E. F., bondsman under the contract of appren-  
ticeship of the defendant.

It is adjudged that the said bondsman do pay to the plaintiff,  
 on or before the            day of            , 187 , the sum of            pounds  
 for damages suffered by him in consequence of the breach of the  
 contract of apprenticeship made between the plaintiff, defendant,  
 and the said bondsman ; and if the same be not paid as ordered,  
 it is hereby further ordered that the same be levied by distress  
 and sale of the goods and chattels of the said bondsman.

Given under our hands and seals this            day of            , 187 .

*Signatures of two of the justices* } J. S. (L.S.)  
*by whom order made.*            } J. S. (L.S.)

18.

PLAINT AND MINUTE BOOK.

*Employers and Workmen Act, 1875.*

Date.	Plaintiff.	Residence.	Trade.	Defendant.	Residence.	Trade.	Particulars of Dispute.	Order made.	Subsequent Proceedings.

SCHEDULE B.

	s.	d.
For entry of every plaint, including summons thereon	1	0
For order on a plaint . . . . .	2	0
For every undertaking given by way of security . . . . .	2	0
For judgment summons, including hearing . . . . .	1	0
For warrant of distress or order of commitment . . . . .	2	0
For summons to witness . . . . .	1	0

N.B.—Where the sum claimed exceeds 1*l.*, or the sum in respect of the non-payment of which the summons for or order of commitment or warrant of distress issues exceeds 1*l.*, an additional fee of one shilling shall be taken.

For mileage in serving or executing process . . . . .	} Such reasonable cost as may be allowed by the court. }
For affidavit and postage . . . . .	

13th August, 1875.

CAIRNS, C.



38 &amp; 39 VICT. c. 86.

*An Act for amending the Law relating to Conspiracy,  
and to the Protection of Property, and for other  
purposes.* [13th August, 1875.]

BE it enacted by the Queen's most Excellent Majesty,  
by and with the advice and consent of the Lords  
Spiritual and Temporal, and Commons, in this present  
Parliament assembled, and by the authority of the same,  
as follows:—

Short title.

1. This act may be cited as the Conspiracy, and  
Protection of Property Act, 1875.

Commence-  
ment of act.

2. This act shall come into operation on the first day  
of September one thousand eight hundred and seventy-  
five.

*Conspiracy, and Protection of Property.*

Amendment of  
law as to con-  
spiracy in trade  
disputes.

3. An agreement or combination by two or more  
persons to do or procure to be done any act in con-  
templation or furtherance of a trade dispute between  
employers and workmen shall not be indictable as a  
conspiracy if such act committed by one person would  
not be punishable as a crime (*a*).

Nothing in this section shall exempt from punishment  
any persons guilty of a conspiracy for which a punish-  
ment is awarded by any act of parliament.

Nothing in this section shall affect the law relating  
to riot, unlawful assembly, breach of the peace, or  
sedition, or any offence against the state or the sovereign.

(*a*) For the history and scope of this clause, see *ante*, pp. 73 - 79,  
and p. 101. See also 34 & 35 Vict. c. 31, *post*, p. 282.

A crime for the purposes of this section means an offence punishable on indictment, or an offence which is punishable on summary conviction, and for the commission of which the offender is liable under the statute making the offence punishable to be imprisoned either absolutely or at the discretion of the court as an alternative for some other punishment.

Where a person is convicted of any such agreement or combination as aforesaid to do or procure to be done an act which is punishable only on summary conviction, and is sentenced to imprisonment, the imprisonment shall not exceed three months, or such longer time, if any, as may have been prescribed by the statute for the punishment of the said act when committed by one person.

4. Where a person employed by a municipal authority or by any company or contractor upon whom is imposed by act of parliament the duty, or who have otherwise assumed the duty of supplying any city, borough, town, or place, or any part thereof, with gas or water, wilfully and maliciously (*b*) breaks a contract of service with that authority or company or contractor, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of that city, borough, town, place, or part, wholly or to a great extent of their supply of gas or water, he shall on conviction thereof by a court of summary jurisdiction or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds or to be imprisoned for a term not exceeding three months, with or without hard labour.

Breach of contract by persons employed in supply of gas or water.

Every such municipal authority, company, or contractor as is mentioned in this section shall cause to be

(*b*) See *post*, sect. 15, and *ante*, pp. 94, 155, 156.

posted up, at the gasworks or waterworks, as the case may be, belonging to such authority or company or contractor, a printed copy of this section in some conspicuous place where the same may be conveniently read by the persons employed, and as often as such copy becomes defaced, obliterated, or destroyed, shall cause it to be renewed with all reasonable despatch.

If any municipal authority or company or contractor make default in complying with the provisions of this section in relation to such notice as aforesaid, they or he shall incur on summary conviction a penalty not exceeding five pounds for every day during which such default continues, and every person who unlawfully injures, defaces, or covers up any notice so posted up as aforesaid in pursuance of this act, shall be liable on summary conviction to a penalty not exceeding forty shillings (*c*).

Breach of contract involving injury to persons or property.

5. Where any person wilfully and maliciously (*d*) breaks a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or cause serious bodily injury, or to expose valuable property whether real or personal to destruction or serious injury, he shall on conviction thereof by a court of summary jurisdiction (*e*), or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding three months, with or without hard labour.

#### *Miscellaneous.*

Penalty for neglect by master to

6. Where a master, being legally liable to provide for his servant or apprentice necessary food, clothing,

(*c*) See *post*, sects. 14, 18 and 21, and *ante*, pp. 157, 158.

(*d*) See *post*, sect. 15, and *ante*, pp. 94, 155, 156.

(*e*) As to the constitution of courts of summary jurisdiction, see *post*, sect. 13; in Scotland, sect. 18; in Ireland, sect. 20.



medical aid or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, whereby the health of the servant or apprentice is or is likely to be seriously or permanently injured, he shall, on summary conviction, be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding six months, with or without hard labour (*f*).

provide food,  
clothing, &c.  
for servant or  
apprentice.

7. Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority,—

Penalty for  
intimidation or  
annoyance by  
violence or  
otherwise.

1. Uses violence to or intimidates such other person or his wife or children, or injures his property; or,
2. Persistently follows such other person about from place to place; or,
3. Hides any tools, clothes or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or,
4. Watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place; or,
5. Follows such other person with two or more other persons in a disorderly manner in or through any street or road,

shall, on conviction thereof by a court of summary jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding three months, with or without hard labour.

(*f*) See *ante*, p. 157, and see sect. 26 of Offences against the Person Act, 24 & 25 Vict. c. 100, *post*, Appendix.

Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section (*g*).

Reduction of penalties.

8. Where in any act relating to employers or workmen a pecuniary penalty is imposed in respect of any offence under such act, and no power is given to reduce such penalty, the justices or court having jurisdiction in respect of such offence may, if they think it just so to do, impose by way of penalty in respect of such offence any sum not less than one fourth of the penalty imposed by such act.

#### *Legal Proceedings.*

Power for offender under this act to be tried on indictment and not by court of summary jurisdiction.

9. Where a person is accused before a court of summary jurisdiction of any offence made punishable by this act, and for which a penalty amounting to twenty pounds, or imprisonment, is imposed, the accused may, on appearing before the court of summary jurisdiction, declare that he objects to being tried for such offence by a court of summary jurisdiction, and thereupon the court of summary jurisdiction may deal with the case in all respects as if the accused were charged with an indictable offence and not an offence punishable on summary conviction, and the offence may be prosecuted on indictment accordingly.

Proceedings before court of summary jurisdiction.

10. Every offence under this act which is made punishable on conviction by a court of summary jurisdiction or on summary conviction, and every penalty under this act recoverable on summary conviction, may

(*g*) This section is in substitution for the now repealed Criminal

Law Amendment Act, 1871, see *ante*, pp. 96, 155.

be prosecuted and recovered in manner provided by the Summary Jurisdiction Act (*h*).

11. Provided, that upon the hearing and determining of any indictment or information under sections four, five and six of this act, the respective parties to the contract of service, their husbands or wives, shall be deemed and considered as competent witnesses. Regulations as to evidence.

12. In England or Ireland (*i*), if any party feels aggrieved by any conviction made by a court of summary jurisdiction on determining any information under this act, the party so aggrieved may appeal therefrom, subject to the conditions and regulations following: Appeal to quarter sessions.

- (1.) The appeal shall be made to some court of general or quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than fifteen days and not more than four months after the decision of the court from which the appeal is made:
- (2.) The appellant shall, within seven days after the cause of appeal has arisen, give notice to the other party and to the court of summary jurisdiction of his intention to appeal, and of the ground thereof:
- (3.) The appellant shall immediately after such notice enter into a recognizance before a justice of the peace, with or without sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court:
- (4.) Where the appellant is in custody the justice may, if he think fit, on the appellant entering

(*h*) See *post*, sect. 13; as to Scotland, sect. 18; and as to Ireland, sect. 21.

(*i*) As to appeal in Scotland, see *post*, sect. 20.



into such recognizance as aforesaid, release him from custody :

- (5.) The court of appeal may adjourn the appeal, and upon the hearing thereof they may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter to the court of summary jurisdiction with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just, and if the matter be remitted to the court of summary jurisdiction the said last-mentioned court shall thereupon re-hear and decide the information in accordance with the opinion of the said court of appeal. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just.

### *Definitions.*

General definitions : "The Summary Jurisdiction Act."

13. In this act,—

The expression "the Summary Jurisdiction Act" means the act of the session of the eleventh and twelfth years of the reign of her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," inclusive of any acts amending the same ; and

"Court of summary jurisdiction."

The expression "court of summary jurisdiction" means—

- (1.) As respects the city of London, the Lord Mayor or any alderman of the said city sitting at the Mansion House or Guildhall justice room ; and
- (2.) As respects any police court division in the metropolitan police district any metropolitan

police magistrate sitting at the police court for that division ; and

(3.) As respects any city, town, liberty, borough, place, or district for which a stipendiary magistrate is for the time being acting, such stipendiary magistrate sitting at a police court or other place appointed in that behalf; and

(4.) Elsewhere, any justice or justices of the peace to whom jurisdiction is given by the Summary Jurisdiction Act; provided that, as respects any case within the cognizance of such justice or justices as last aforesaid, an information under this act shall be heard and determined by two or more justices of the peace in petty sessions sitting at some place appointed for holding petty sessions (*k*).

Nothing in this section contained shall restrict the jurisdiction of the lord mayor or any alderman of the city of London, or of any metropolitan police or stipendiary magistrate, in respect of any act or jurisdiction which may now be done or exercised by him out of court.

14. The expression "municipal authority" in this act means any of the following authorities, that is to say, the Metropolitan Board of Works, the Common Council of the city of London, the Commissioners of Sewers of the city of London, the town council of any borough for the time being subject to the act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and any act amending the same, any commissioners, trustees, or

Definitions of  
"municipal  
authority" and  
"public com-  
pany."

(*k*). See *ante*, pp. 108, 109.

other persons invested by any local act of parliament with powers of improving, cleansing, lighting, or paving any town, and any local board.

Any municipal authority or company or contractor who has obtained authority by or in pursuance of any general or local act of parliament to supply the streets of any city, borough, town, or place, or of any part thereof, with gas, or which is required by or in pursuance of any general or local act of parliament to supply water on demand to the inhabitants of any city, borough, town, or place, or any part thereof, shall for the purposes of this act be deemed to be a municipal authority or company or contractor upon whom is imposed by act of parliament the duty of supplying such city, borough, town, or place, or part thereof, with gas or water.

“Maliciously”  
in this act  
construed as in  
Malicious  
Injuries to  
Property Act.

15. The word “maliciously” used in reference to any offence under this act shall be construed in the same manner as it is required by the fifty-eighth section of the act relating to malicious injuries to property, that is to say, the act of the session of the twenty-fourth and twenty-fifth years of the reign of her present Majesty, chapter ninety-seven, to be construed in reference to any offence committed under such last-mentioned act (*l*).

#### *Saving Clause.*

Saving as to  
sea service.

16. Nothing in this act shall apply to seamen or to apprentices to the sea service.

#### *Repeal.*

Repeal of acts.

17. On and after the commencement of this act, there shall be repealed:—

I. The act of the session of the thirty-fourth and thirty-fifth years of the reign of her present

(*l*) See *ante*, pp. 155, 156, and *post*, p. 273.



Majesty, chapter thirty-two, intituled “An Act to amend the Criminal Law relating to violence, threats, and molestation” (*m*); and

II. “The Master and Servant Act, 1867,” and the enactments specified in the first schedule to that act (*n*), with the exceptions following as to the enactments in such schedule ; (that is to say,)

(1.) Except so much of sections one and two of

(*m*) As to this act, see *ante*, pp. 40, 96.

(*n*) It is to be regretted that the first intention of the Government to embody the repealed statutes and sections in a separate act was not adhered to. The mode of repeal adopted by reference to a schedule in a now repealed act is irregular and inconvenient. It makes it necessary to add the schedule here:—

THE FIRST SCHEDULE OF THE  
MASTER AND SERVANT ACT,  
1867.

*Enactments referred to.*

7 Geo. 1, stat. 1, c. 13, ss. 4, 6.—  
An act for regulating the journeymen tailors within the weekly bills of mortality.

9 Geo. 1, c. 27, s. 4.—An act for preventing journeymen shoemakers selling, exchanging or pawning boots, shoes, slippers, cut leather, or other materials for making boots, shoes or slippers, and for better regulating the said journeymen.

13 Geo. 2, c. 8, ss. 7, 8.—An act to explain and amend an act made in the first year of the reign of her late Majesty Queen Anne, intituled An act for the more effectual preventing the

abuses and frauds of persons employed in the working up the woollen, linen, fustian, cotton and iron manufactures of this kingdom; and for extending the said act to the manufactures of leather.

20 Geo. 2, c. 19.—An act for the better adjusting and more easy recovery of the wages of certain servants; and for the better regulation of such servants and of certain apprentices.

27 Geo. 2, c. 6.—An act to repeal a proviso in an act made in the twentieth year of his present Majesty's reign, intituled An act for the better adjusting and more easy recovery of the wages of certain servants, and for the better regulation of such servants and of certain apprentices, which provides that the said act shall not extend to the stanaries in Devon and Cornwall.

31 Geo. 2, c. 11, s. 3.—An act to amend an act made in the third year of the reign of King William and Queen Mary, intituled An act for the better explanation and supplying the defects of the former laws for the settlement of the poor, so far as the same relates to apprentices gaining a settlement by inden-

the act passed in the thirty-third year of the reign of King George the Third, chapter

- ture; and also to empower justices of the peace to determine differences between masters and mistresses and their servants in husbandry, touching their wages, though such servants are hired for less time than a year.
- 6 Geo. 3, c. 25.—An act for better regulating apprentices and persons working under contract.
- 17 Geo. 3, c. 56, ss. 8, 19.—An act for amending and rendering more effectual the several laws now in being, for the more effectual preventing frauds and abuses by persons employed in the manufacture of hats, and in the woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax, mohair and silk manufactures; and also for making provisions to prevent frauds by journeymen dyers.
- 33 Geo. 3, c. 55, ss. 1, 2.—An act to authorize justices of the peace to impose fines upon constables, overseers, and other peace or parish officers, for neglect of duty, and on masters of apprentices for ill-usage of such their apprentices; and also to make provision for the execution of warrants of distress granted by magistrates.
- 39 & 40 Geo. 3, c. 77, s. 3.—An act for the security of collieries and mines, and for the better regulation of colliers and miners.
- 59 Geo. 3, c. 92, ss. 5, 6.—An act to enable justices of the peace in Ireland to act as such, in certain cases, out of the limits of the counties in which they actually are; to make provision for the execution of warrants of distress granted by them; and to authorize them to impose fines upon constables and other officers for neglect of duty, and on masters for ill-usage of their apprentices.
- 4 Geo. 4, c. 29.—An act to increase the power of magistrates in cases of apprenticeships.
- 4 Geo. 4, c. 34.—An act to enlarge the powers of justices in determining complaints between masters and servants, and between masters, apprentices, artificers and others.
- 10 Geo. 4, c. 52.—An act to extend the powers of an act of the fourth year of his present Majesty, for enlarging the powers of justices in determining complaints between masters and servants to persons engaged in the manufacture of silk.
- 5 & 6 Viet. c. 7.—An act to explain the acts for the better regulation of certain apprentices.
- 6 & 7 Viet. c. 40, s. 7.—An act to amend the laws for the prevention of frauds and abuses by persons employed in the woollen, worsted, linen, cotton, flax, mohair and silk hosiery manufactures; and for the further securing the property of the manufacturers and the wages of the workmen engaged therein.
- 14 & 15 Viet. c. 92, s. 16.—The Summary Jurisdiction (Ireland) Act, 1851.

fifty-five, intituled "An Act to authorize justices of the peace to impose fines upon constables, overseers and other peace or parish officers for neglect of duty, and on masters of apprentices for ill-usage of such their apprentice; and also to make provision for the execution of warrants of distress granted by magistrates," as relates to constables, overseers and other peace or parish officers; and

- (2.) Except so much of sections five and six of an act passed in the fifty-ninth year of the reign of King George the Third, chapter ninety-two (*o*), intituled An Act to enable justices of the peace in Ireland to act as such, in certain cases, out of the limits of the counties in which they actually are; to make provision for the execution of warrants of distress granted by them; and to authorize them to impose fines upon constables and other officers for neglect of duty, and on masters for ill-usage of their apprentices," as relates to constables and other peace or parish officers; and
- (3.) Except the act of the session of the fifth and sixth years of the reign of her present Majesty, chapter seven, intituled "An Act to explain the Acts for the better regulation of certain apprentices;" (*p*) and
- (4.) Except sub-sections one, two, three and five of section sixteen of "The Summary Jurisdiction (Ireland) Act, 1851," relating to certain disputes between employers and the persons employed by them; and (*q*).

III. Also there shall be repealed the following enact-

(*o*) The whole of this act except s. 3 was expressly repealed by the Stat. Law Rev. Act, 1873, so the exception (2) is inoperative.

(*p*) See *ante*, p. 151 (n.).

(*q*) See this section in the Appendix, *post*.



ments making breaches of contract criminal, and relating to the recovery of wages by summary procedure; (that is to say,)

(*a.*) An Act passed in the fifth year of the reign of Queen Elizabeth, chapter four, and intituled “An Act touching dyvers orders for artificers, labourers, servantes of husbandrye, and apprentices;” and

(*b.*) So much of section two of an act passed in the twelfth year of King George the First, chapter thirty-four, and intituled “An Act to prevent unlawful combination of workmen employed in the woollen manufactures, and for better payment of their wages,” as relates to departing from service and quitting or returning work before it is finished (*p*); and

(*c.*) Section twenty of an act passed in the fifth year of King George the Third, chapter fifty-one, the title of which begins with the words “An Act for repealing several laws relating to the manufacture of woollen cloth in the county of York,” and ends with the words for preserving the credit of the said manufacture at the foreign market” (*q*);

(*d.*) An act passed in the nineteenth year of King George the Third, chapter forty-nine, and intituled “An Act to prevent abuses in the payment of wages to persons employed in the bone and thread lace manufactory;” and

(*e.*) Sections eighteen and twenty-three of an act passed in the session of the third and fourth years of her present Majesty, chapter ninety-one, intituled “An Act for the more effectual prevention of frauds and abuses committed by weavers, sewers and other persons

(*p*) See *post*, Appendix.

(*q*) See *post*, Appendix.

employed in the linen, hempen, union, cotton, silk and woollen manufactures in Ireland, and for the better payment of their wages, for one year, and from thence to the end of the next session of parliament;" (*r*) and

(*f*.) Section seventeen of an act passed in the session of the sixth and seventh years of her present Majesty, chapter forty, the title of which begins with the words "An Act to amend the laws," and ends with the words "workmen engaged therein;" (*s*) and

(*g*.) Section seven of an act passed in the session of the eighth and ninth years of Her present Majesty, chapter one hundred and twenty-eight, and intituled "An Act to make further regulations respecting the tickets of work to be delivered to silk weavers in certain cases" (*t*).

Provided that,—

(1.) Any order for wages or further sum of compensation in addition to wages made in pursuance of section sixteen of "The Summary Jurisdiction (Ireland) Act, 1851" (*u*), may be enforced in like manner as if it were an order made by a court of summary jurisdiction in pursuance of the Employers and Workmen Act, 1875, and not otherwise; and

(2.) The repeal enacted by this section shall not affect—

(*a*.) Anything duly done or suffered, or any right or liability acquired or incurred under any enactment hereby repealed; or

(*b*.) Any penalty, forfeiture, or punishment in-

(*r*) See *post*, Appendix.

(*s*) See *post*, Appendix.

(*t*) See *post*, Appendix.

(*u*) See this section in the Appendix, *post*.

curred in respect of any offence committed against any enactment hereby repealed; or  
 (c.) Any investigation, legal proceeding, or remedy in respect of any such right, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this act had not passed.

*Application of Act to Scotland.*

Application to  
Scotland.

**18.** This act shall extend to Scotland, with the modifications following; that is to say,

Definition.

- (1.) The expression "municipal authority" means the town council of any royal or parliamentary burgh, or the commissioners of police of any burgh, town, or populous place under the provisions of the General Police and Improvement (Scotland) Act, 1862, or any local authority under the provisions of the Public Health (Scotland) Act, 1867:
- (2.) The expression "The Summary Jurisdiction Act" means the Summary Procedure Act, 1864, and any acts amending the same:
- (3.) The expression "the court of summary jurisdiction" means the sheriff of the county or any one of his substitutes.

Recovery of  
penalties, &c.  
in Scotland.

**19.** In Scotland the following provisions shall have effect in regard to the prosecution of offences, recovery of penalties, and making of orders under this act:

- (1.) Every offence under this act shall be prosecuted, every penalty recovered, and every order made at the instance of the Lord Advocate, or of the Procurator Fiscal of the sheriff court:
- (2.) The proceedings may be on indictment in the Court of Justiciary in Edinburgh, or on circuit, or in a sheriff court, or may be taken



summarily in the sheriff court under the provisions of the Summary Procedure Act, 1864:

(3.) Every person found liable on conviction to pay any penalty under this act shall be liable, in default of payment within a time to be fixed in the conviction, to be imprisoned for a term, to be also fixed therein, not exceeding two months, or until such penalty shall be sooner paid, and the conviction and warrant may be in the form of No. 3 of Schedule K. of the Summary Procedure Act, 1864:

(4.) In Scotland all penalties imposed in pursuance of this act shall be paid to the clerk of the court imposing them, and shall by him be accounted for and paid to the Queen's and Lord Treasurer's Remembrancer, and be carried to the consolidated fund.

20. In Scotland it shall be competent to any person to appeal against any order or conviction under this act to the next circuit Court of Justiciary, or where there are no circuit courts to the High Court of Justiciary at Edinburgh, in the manner prescribed by and under the rules, limitations, conditions, and restrictions contained in the act passed in the twentieth year of the reign of his Majesty King George the Second, chapter forty-three, in regard to appeals to circuit courts in matters criminal, as the same may be altered or amended by any acts of parliament for the time being in force (x).

Appeal in  
Scotland as  
prescribed by  
20 Geo. 2, c. 43.

#### *Application of Act to Ireland.*

21. This act shall extend to Ireland, with the modifications following; that is to say,

Application to  
Ireland.

The expression "the Summary Jurisdiction Act" shall be construed to mean, as regards the police

(x) See "The Summary Prosecutions Appeals (Scotland) Act, 1875" (38 & 39 Vict. c. 62), giving an appeal on points of law (apply to the 38 & 39 Vict. c. 86), and extending the time for lodging appeals under 20 Geo. 2, c. 43.

district of Dublin metropolis, the acts regulating the powers and duties of justices of the peace for such district; and elsewhere in Ireland, the Petty Sessions (Ireland) Act, 1851, and any acts amending the same:

The expression "court of summary jurisdiction" shall be construed to mean any justice or justices of the peace, or other magistrate to whom jurisdiction is given by the Summary Jurisdiction Act:

The court of summary jurisdiction, when hearing and determining complaints under this act, shall in the police district of Dublin metropolis be constituted of one or more of the divisional justices of the said district, and elsewhere in Ireland of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions:

The expression "municipal authority" shall be construed to mean the town council of any borough for the time being, subject to the act of the session of the third and fourth years of the reign of her present Majesty, chapter one hundred and eight, entitled "An Act for the Regulation of Municipal Corporations in Ireland," and any commissioners invested by any general or local act of parliament, with power of improving, cleansing, lighting, or paving any town or township.

## APPENDIX

### OF UNREPEALED STATUTES RELATING TO EMPLOYERS AND WORKMEN.

---

NOTE.—*The Statutes are cited from the Revised Edition, so far as that Edition extends.*

---

#### 1 ANNE, STAT. 2, C. 22.

*An Act for the more effectual preventing the Abuses and Frauds of Persons employed in the working up the Woollen, Linen, Fustian, Cotton and Iron Manufactures of this Kingdom (a).*

Sect. 1. "If any person or persons employed in the working up the woollen . . . linen, fustian, cotton or iron manufactures within this kingdom shall imbezel or purloyn any . . . wifts, &c., or any other materials of wool, &c. or iron, with which he, she or they is or shall be intrusted to work upon . . . being thereof lawfully convicted by the oath of one or more credible witness or witnesses, or by the confession of the party or parties accused of the same before one justice of the peace of the said county where such offence shall be committed, shall forfeit double the value of the damages done for the use of the poor of the said parish, and in case the offender or offenders so convicted as aforesaid shall neglect or refuse to pay their forfeiture or forfeitures as aforesaid, that then it shall and may be lawful for the said justice to cause the said offender to be committed to the house of correction until satisfaction shall be made; and in case it shall appear to the said justice that the said offender is not able to make satisfaction, then the said offender shall be there publicly whipped and kept to hard labour for any time not exceeding fourteen days."

(a) Chapter 18 in the common printed editions of the statutes. It was made perpetual, 9 Anne, c. 30, and extended to Scotland by 13 Geo. 2, c. 8. This act was repealed in part by 58 Geo. 3, c. 51, s. 2; 1 & 2 Will. 4, c. 36, ss. 1, 2; 6 & 7

Vict. c. 40, s. 1, and by Statute Law Rev. Act, 1867. Except so far as extended to leather by 13 Geo. 2, c. 8, this act, as regards England, only applies to iron; see 6 & 7 Vict. c. 40, ss. 1, 33.



Sect. 2. "Every person or persons buying or receiving any . . . materials of . . . iron, and being thereof lawfully convicted in manner aforesaid, shall suffer the like penalties and forfeitures as one convicted pursuant to this act for purloining and imbezeling of the said materials."

"All wages, demands, frauds and defaults of labourers in the . . . iron manufactures, for or concerning any work done in the same manufactures, shall and may be heard and determined by any two justices of the peace" [&c.; with appeal to quarter sessions].

---

9 GEO. 1, c. 27.

*An Act for preventing Journeymen Shoemakers selling, exchanging or pawning Boots, Shoes, Slippers, Cut Leather, or other Materials for making Boots, Shoes or Slippers, and for better regulating the said Journey-men.*

Sect. 1. On due proof of any journeyman shoemaker, or other person hired or employed as such within the bills of mortality, purloining boots, &c., a justice may convict him, and may award satisfaction for damages sustained, which may be levied by distress.

Sect. 2. Confederates liable to the same punishment.

Sect. 3. Justices may issue warrants, &c. to search for leather, &c. purloined, and may cause goods to be restored to owners.

Sect. 4 repealed, 38 & 39 Vict. c. 86, s. 17 ; see *ante*, p. 202.

Sect. 5. Persons aggrieved may appeal to the sessions.

---

12 GEO. 1, c. 34.

*An Act to prevent Unlawful Combinations of Workmen employed in the Woollen Manufactures, and for better payment of their Wages (b).*

Sect. 2 (c). Any woolcomber, weaver, servant or person hired, retained or employed in the art or mystery of a wool-

(b) Repealed in part by 22 Geo. 3, c. 40, s. 4; extended to Scotland and Ireland by 57 Geo. 3, c. 122, s. 3; repealed in part by 58 Geo. 3, c. 51, s. 2; 6 Geo. 4, c. 129, s. 2; 9 Geo. 4, c. 31, s. 1; 2 Geo. 4, c. 74, s. 125; 1 & 2 Will. 4, c. 36, ss. 1, 2; 6 & 7

Vict. c. 40, ss. 133; Statute Law Rev. Act, 1867. See also 38 & 39 Vict. c. 86, s. 17, *ante*, p. 204.

(c) The act may be regarded as not in force in England, so far as it originally extended, as it was apparently confined to workmen em-

comber or weaver, who shall wilfully damnify, spoil or destroy (without the consent of the owner) any of the goods, wares or work committed to his care or charge, or wherewith he shall be entrusted, on summary conviction to forfeit and pay double value, to be levied by distress, and in default by imprisonment, not exceeding three months.

---

## 13 GEO. 1, c. 26.

*An Act for better Regulation of the Linen and Hempen Manufactures in that part of Great Britain called Scotland (d).*

Sect. 10. "If any weaver shall neglect to weave any linen yarn delivered to him by any person or persons into such cloth and within such time and in such manner as was contracted and agreed for, or shall waste, imbezle or damnify, or suffer to be wasted, imbezeled or damnified any linen yarn delivered to him, such weaver being thereof convicted, in such manner as is after mentioned, shall for every such offence make good the party's damage, and shall further forfeit and pay to the person aggrieved a sum not exceeding forty shillings sterling, nor less than five shillings sterling, in such manner as is hereinafter mentioned."

Sect. 31. Offences to be heard and determined by one or more justice or justices of the peace, &c.

Sect. 32. Appeal to quarter sessions.

---

## 13 GEO. 2, c. 8.

*An Act to explain and amend an Act made in the First Year of the Reign of her late Majesty Queen Anne, intituled "An Act for the more effectual preventing the Abuses and Frauds of Persons employed in the working up the Woollen, Linen, Fustian, Cotton and Iron Manufactures of this Kingdom," and for extending the said Act to the Manufactures of Leather (e).*

Sect. 1. Recites doubts as to whether 1 Ann. st. 2, c. 22, extends to the embezzling woollen, linen, fustian, cotton and

ployed in the woollen manufacture, and therefore repealed as to England by 6 & 7 Vict. c. 40; but see its extension by 22 Geo. 2, c. 27, *post*.

(d) Expressly repealed in part, Statute Law Revision Act, 1867.

(e) Repealed as to the payment of forfeitures and substituted provisions, 58 Geo. 3, c. 51; and so

iron manufactures, actually wrought or made up into merchantable wares, and as to the application of forfeitures, and that the forfeitures and penalties of recited act have proved ineffectual, and provides forfeitures and penalties "if any person or persons who shall be hired or employed in the working up of any woollen, linen, fustian, cotton or iron manufactures" shall "purloin, imbezil, secret, sell, pawn, exchange, or otherwise illegally dispose of any of the materials with which he, she or they shall be respectively intrusted to work up such woollen, linen, fustian, cotton or iron manufactures, whether the same or any part thereof be or be not first wrought, made up or manufactured, or shall reel short or false yarn."

Sect. 2. Imposes the like forfeitures and penalties on every person who "shall buy or receive, accept or take by way of gift, pawn, pledge or sale, of or from any or either of the persons herein, or in the said recited act mentioned, any woollen, linen, fustian, cotton or iron manufactures, either before or after the same shall be wrought, made up, manufactured or converted into merchantable wares, knowing the same to be so purloined or embezzled."

Sect. 3. Application of forfeitures.

Sect. 4. Recites that "many frauds and abuses have of late been likewise committed by persons employed in cutting out and manufacturing of skins, leather and other materials into gloves, breeches, boots, shoes, slippers, and other wares and manufactures, by purloining, embezzling, secreting, selling, pawning, or exchanging such skins, leather, and other materials, or in some other manner, wherefore it is become necessary to make provision for discovering, preventing and punishing such offences, and for the better regulating such persons as are or shall be employed in the premises last mentioned," and provides forfeitures and penalties that if "any person or persons, hired or employed, or to be hired or employed, in cutting, paring, washing, dressing, sewing, making up, or otherwise manufacturing of gloves, breeches, leather, skins, boots, shoes, slippers, wares, or other goods or materials to be made use of in any of the trades or employments, or in manner last mentioned, or in any branch or particular thereof, shall fraudulently purloin, embezel, secret, sell, pawn, or exchange all or any part of the gloves, breeches, leather, skins, parings, or shreads of gloves, or leather, or other materials with which he, she, or they shall be entrusted to work up or manufacture, or shall purloin, embezel, secret, sell, pawn, or exchange any gloves, breeches,

much as regulated or related to the payment of wages in goods or truck, 1 & 2 Will. 4, c. 36; and repealed as to England, so far as relates to the woollen, linen, cotton, flax,

mohair, and silk manufactures, or any manufactures made of those materials, by 6 & 7 Vict. c. 40; see also 38 & 39 Vict. c. 86, s. 17, *ante*, p. 202.



boots, shoes, slippers, or wares when made, wrought up or manufactured, or do or wilfully permit any other act, whereby to lessen the value of such or any part of such gloves, breeches, leather, skins, parings or shreads of gloves, or leather, boots, shoes, slippers or other wares last particularized, either before or after the same shall be respectively so made into wares."

Sect. 5. Receivers subject to the same penalties.

Sect. 6. "To prevent oppression of the labourers and workmen employed in any respect in or about making or manufacturing of gloves, breeches, boots, shoes, slippers, wares or goods of that sort before mentioned;" "all goods and materials delivered out to be wrought up in the manufacture last mentioned shall be delivered with a declaration at the same time of the true weight, quantity, or tale thereof, on pain that every offender . . . shall forfeit and pay to such labourer, manufacturer, or worker, double the value of what shall be due for such work by him, her or them done and performed; and if any such labourer, manufacturer, or worker, as is last described, shall be guilty of any fraud, abuse, neglect, or default in the work by him, her or them undertaken to be done, then such labourer, manufacturer, or worker shall allow and answer to the owner of such work double the damages thereby sustained."

Sects. 7 and 8 repealed, 38 & 39 Vict. c. 86, s. 17; see *ante*, p. 201.

Sect. 9. Appeal to quarter sessions.

Sect. 10. No person by virtue of recited or this act to suffer the punishment therein directed twice for one and the same fact and offence.

Sect. 11. Acts 1 Ann. st. 2, s. 22, and this act, to extend to Scotland.

## 15 GEO. 2, c. 27.

*An Act for the more effectual preventing any Cloth or Woollen Goods remaining upon the Rack or Tenters, or any Woollen Yarn or Wooll left out to dry, from being stolen or taken away in the Night-time.*

Sect. 1. Recites that "clothiers and others concerned in the woollen manufacture are under a necessity of letting their cloth and other woollen goods remain upon the rack or tenters; as also of suffering their wooll to lie exposed in the night-time, in order the better to dry and prepare the same, whereby their said goods are more frequently liable to be stolen by wicked and evil designing persons, who are encouraged in their wickedness by the difficulty of proving the identity of the goods stolen," and therefore "to secure the property of such clothiers

and others concerned in the woollen manufacture, and to facilitate a discovery of such goods so stolen," in case "any cloth or woollen goods remaining upon the rack and tenters, or any woollen yarn or wooll left out to dry, shall be stolen or taken away in the night-time," empowers justices to issue search warrants, and constables to apprehend suspected persons found in possession of such goods, and carry them before justices; "and if the said person or persons so suspected, apprehended and carried before the said justice or justices shall not then and there give a satisfactory account how he, she or they acquired the property or possession of such cloth, woollen goods, woollen yarn, or wooll, or shall not, within some convenient time to be set by the said justice or justices, produce the party or parties of whom he, she or they received the same, or some other credible witness to depose upon oath such property or right to the possession of the said cloth, woollen goods, woollen yarn or wooll (which oath the said justice or justices is and are hereby empowered to administer), that the said person or persons so suspected, and not giving such satisfactory account, nor producing any such witness upon oath to testify as aforesaid, shall be deemed and adjudged as convicted of the said offence of stealing or taking away the said cloth, woollen goods, woollen yarn, or wooll, and shall for the first offence forfeit and pay to the owner of such cloth, woollen goods, woollen yarn or wooll, treble the value thereof," to be levied by distress, and in default of distress imprisonment for three months or until payment. Second offence six months' imprisonment besides penalty. Third offence indictable as a felony.

Sect. 2. Appeal from summary conviction to quarter sessions.

Sect. 3. "This act shall not extend to alter or repeal any law now in force for the punishment of any person or persons stealing or receiving such cloth, woollen goods, woollen yarn, or wooll, except in such cases where the proof is laid upon the offender or offenders as aforesaid."

---

## 22 GEO. 2, C. 27.

*An Act for the more effectual preventing of Frauds and Abuses committed by Persons employed in the Manufacture of Hats, and in the Woollen, Linnen, Fustian, Cotton, Iron, Leather, Furr, Hemp, Flax, Mohair, and Silk Manufactures; and for preventing unlawful combinations of Journeymen Dyers and Journeymen Hot Pressers, and of all Persons employed in the said several Manufactures, and for the better Payment of their Wages (f).*

Sect. 1. Recites several provisions of 13 Geo. 2, c. 8(g), and that penalties and forfeitures are insufficient, and that many persons employed in the making of felts or hats, and in preparing or working up the manufactures of furr, hemp, flax, mohair and silk, and also the manufactures made up of wooll, furr, hemp, flax, mohair, cotton, or silk, or some of them mixed one with another, have of late been guilty of divers frauds and abuses by purloining, imbezilling, secreting, selling, pawning, exchanging, or otherwise unlawfully disposing of the materials with which they have been entrusted; and it is therefore become necessary to make provision for preventing such offences for the future." Therefore, for amending and rendering more effectual the 13 Geo. 2, and for extending the provisions and regulations therein and herein made to the several manufactures hereinbefore mentioned forfeitures and penalties are imposed, "if any person or persons whatsoever who shall be hired or employed to make any felt or hat, or to prepare or work up any woollen, linnen, fustian, cotton, iron, leather, furr, hemp, flax, mohair, or silk manufactures, or any manufactures made up of wooll, furr, hemp, flax, cotton, mohair, or silk, or of any of the said materials mixed one with another, shall . . . purloin, imbezzil, secrete, sell, pawn, exchange, or otherwise unlawfully dispose of any of the materials with which he, she or they shall be respectively entrusted, whether the same or any part thereof be, or be not, first wrought, made up, manufactured or converted into merchantable wares."

(f) So much repealed by 14 Geo. 3, c. 44, as subjects any person to any punishment for reeling short yarn, and fresh provisions; punishments altered, 17 Geo. 3, c. 56; provisions of, as to recovery of wages, extended to cutlery, 57 Geo. 3, c. 115, and to colliers, 57 Geo. 3, c. 122; application of penalties altered, 58 Geo. 3, c. 51; so much as extended provisions of 12 Geo. 1 to persons therein mentioned, repealed,

6 Geo. 4, c. 129 and 9 Geo. 4, c. 31 (as to England), and 9 Geo. 4, c. 74 (as to India); repealed, as to the payment of wages in goods, 1 & 2 Will. 4, c. 36; as to England, so far as relates to the woollen, linen, cotton, flax, mohair and silk manufactures, or any manufactures of those materials, by 6 & 7 Vict. c. 40. Sections 3, 10 and 11 repealed, Statute Law Rev. Acts, 1867, 1871.

(g) See *ante*, p. 211.



Sect. 2. Penalties and forfeitures for buying or receiving any of the materials from persons known to be hired or employed, and without consent of employers, or for buying or receiving materials knowing them to be so purloined or embezzled.

Sect. 3. Repealed.

Sect. 4. Power to justices to grant warrants to search houses of convicted persons, and for seizure and disposal of property if not proved to have been honestly and lawfully acquired.

Sect. 5. Notice to be given to the convict of property seized, and if detained in prison he is to be brought before justices in order to prove the property.

Sect. 6. Appeal to sessions.

Sect. 7. Penalty on persons entrusted with materials before mentioned to work up, not returning unused materials within a certain time (*h*).

Sect. 8. Justices empowered to issue warrant, and to hear and determine complaints.

Sect. 9. Repealed (*i*).

Sects. 10 and 11. Repealed.

Sect. 12. Recites several clauses of 12 Geo. 1, c. 34, *inter alia*, that "if any wooll comber, weaver, servant, or person hired, retained or employed in the said art or mystery, shall wilfully damnify, spoil or destroy (without the consent of the owner) any of the goods, wares or work committed to his care or charge, or wherewith he shall be entrusted, such offender, being thereof convicted, shall forfeit and pay to the owner or owners of such goods or wares so damnified, spoiled or destroyed, double the value thereof, to be levied by distress and sale of the offender's goods and chattels, by warrant or warrants under the hands and seals of any two or more justices of the peace within their respective jurisdictions; and for want of sufficient distress, such justices shall commit the party or parties offending to the house of correction, there to be kept to hard labour for any time not exceeding three months, or until satisfaction be made to the party or parties aggrieved for the same" (*h*): and it also recites the right of appeal given by the statute; and "that it is necessary that the said several provisions and regulations in the said last in part recited act should be extended to journeymen dyers, journeymen hot pressers, and all other persons employed in the woollen manufactures of this kingdom, and also to journeymen, servants, workmen, and

(*h*) For twenty-one days, fixed by this statute, eight days were substituted by 17 Geo. 3, c. 56, s. 7; and punishment made same as for embezzlement.

(*i*) This section provided for the punishment of person employed procuring or permitting himself to be

employed for another master before completing work. This provision was repealed and fresh provisions substituted by 17 Geo. 3, c. 56, s. 8, in its turn repealed by the Conspiracy and Protection of Property Act, 1875.

(*k*) See *ante*, p. 210.

labourers employed in the making of felts or hats, and in the manufactures of silk, mohair, furr, hemp, flax, linnen, cotton, fustian, iron and leather, or any manufactures made up of wooll, furr, hemp, flax, cotton, mohair, or silk, or of any of the said materials mixed up one with another;" and enacts that the said several before-recited clauses in the act 12 Anne, and all the provisions, regulations, pains, penalties and forfeitures therein contained shall "extend and be construed, deemed and adjudged to extend to journeymen dyers, journeymen hot pressers, and all other persons whatsoever employed in or about any of the woollen manufactures of this kingdom, and also to journeymen, servants, workmen, and labourers, and all other persons whatsoever employed in the making of felts or hats, or in or about any of the manufactures of silk, mohair, furr, hemp, flax, linnen, cotton, fustian, iron or leather, or in or about any manufactures made up of wooll, furr, hemp, flax, cotton, mohair, or silk, or of any of the said materials mixed one with another, in as full and ample manner as the said provisions, regulations, pains, penalties and forfeitures are by the said last-mentioned act declared to extend to the several and respective persons therein named."

---

## 27 GEO. 2, C. 7.

*An Act for the more effectual preventing of Frauds and Abuses committed by Persons employed in the Manufacture of Clocks and Watches.*

Sect. 1. Recites "that many persons employed in the making of clocks and watches have of late been guilty of divers frauds and abuses by purloining, imbezzilling, secreting, selling, pawning, or otherwise unlawfully disposing of the clocks and watches, or such parts thereof, or the materials for making the same with which they have been intrusted, to the great loss of their employers; and the laws in being have been found insufficient to prevent such frauds and abuses, and to punish the offender:" and enacts, "that if any person or persons whatsoever, who shall be hired or employed by any person or persons practising the trade or trades of clockmaking or watchmaking, or any part or branch, or parts or branches of such trade or trades, to make, provide, alter, repair or clean any clock or clocks, watch or watches, or any part or parts of a clock or clocks, watch or watches, or be intrusted by any person or persons practising the said trade or trades, with any gold, silver, or other metal or material, to be, or that shall be, in the whole or in part wrought or manufactured for any part or parts of a clock or clocks, watch or watches, or any diamond or other precious stone, to be, or that shall be, set or fixed in or



about any clock or clocks, watch or watches, shall . . . purloin, imbezzil, secrete, sell, pawn, exchange or otherwise unlawfully dispose of any clock or watch, or any part or parts of any clock or watch, or any gold, silver or other metal or material, or any part thereof, or any diamond or other precious stone, with which such person or persons shall be intrusted by any person or persons practising the said trade or trades, or any part or branch, or parts or branches of such trade or trades, and shall be thereof convicted [&c.] before any one or more justice or justices of the peace of the county [&c.] where such offence shall be committed, or where the person or persons so charged shall reside or inhabit . . . every such offender shall for the first offence forfeit twenty pounds" [the section then provides for the enforcement, and for a second or other subsequent offence].

Sect. 2. Penalty for buying, receiving or taking, by way of gift, pawn, pledge, sale or exchange, or in any other manner, any of the goods or materials aforesaid, knowing the same to be purloined or embezzilled, and for second or subsequent offence.

Sect. 3. Appeal to quarter sessions.

Sect. 4. Form of conviction.

Sect. 5. Warrants for apprehending offenders.

---

### 30 GEO. 2, C. 12.

*An Act to amend an Act made in the Twenty-ninth Year of the reign of his present Majesty, intituled "An Act to render more effectual an Act passed in the Twelfth Year of the Reign of his late Majesty King George, to prevent unlawful Combinations of Workmen employed in the Woollen Manufactures, and for better Payment of their Wages; and also an Act passed in the Thirteenth Year of the Reign of his said late Majesty, for the better Regulation of the Woollen Manufacture, and for preventing Disputes among the Persons concerned therein; and for limiting a time for prosecuting for the Forfeiture appointed by the aforesaid Act in case of Payment of the Workmen's Wages in any other manner than in Money" (1).*

The only section of this act, if any, capable of being enforced, is sect. 4, which enacts that "if any clothier or maker of any

(1) Although the act recited in the title (29 Geo. 2, c. 33) was wholly repealed by the Statute Law Revision Act, 1867, that repeal does not



mixed, medley or white broad cloth, shall refuse or neglect to pay to the weaver or weavers employed by him or them, his or their wages or price agreed on in money within two days next after the work shall be performed and delivered to such employer, or some person on his behalf (the same being demanded of such employer or person employed on his behalf), then, and in every such case, every such clothier or person so offending shall for every such offence forfeit and pay the sum of forty shillings, to be recovered in such manner and form, and by such ways and means, and to be paid, applied and disposed of as the several penalties and forfeitures incurred and made payable by the said recited act made in the twenty-ninth year of his present majesty's reign, are thereby directed and appointed to be recovered and applied."

It is unnecessary to consider the effect on this section of the repeal of the act referred to, 29 Geo. 2, c. 33, as stated in the note, for practically there is no necessity to resort to this mode of recovering wages. It is possible, however, that resort may be had to this section (which is printed in the revised edition of the Statutes) in certain contingencies.

---

5 GEO. 3, C. 51.

*"An Act for repealing several Laws relating to the Manufacture of Woollen Cloth in the County of York," &c.*

This act, which was repealed in part by 6 Geo. 3, c. 23, ss. 14, 27, and by 49 Geo. 3, c. 109, s. 2, and sect. 20 of which is repealed by the Conspiracy and Protection of Property Act, 1875, s. 17, *ante*, p. 204, even assuming that any part of it is practically in force, is too local to admit of further notice here.

---

14 GEO. 3, C. 25.

*An Act for the more effectual preventing Frauds and Embezzlements by Persons employed in the Woollen Manufactory (m).*

Sect. 1. Recites that "frauds are frequently committed and embezzlements made by persons employed in the woollen manu-

appear to have had the effect of repealing this act. So much however of the 30 Geo. 2, c. 12, as regulates or relates to the payment of the wages of workmen in goods or by way of truck was repealed by 1 & 2

Will. 4, c. 36; and sect. 1 was repealed by the Statute Law Revision Act, 1867.

(m) No part of this statute has been repealed.

factory, particularly by their secreting, selling, or otherwise illegally disposing of the working tools and materials they are intrusted with, by the weavers taking the biers out of the chains and withholding part of the woof or abb yarn delivered to them, and by the pickers, scribblers and spinners embezzling part of the wool and yarn entrusted to them, and also by damping, steaming and watering the residue in order to make up the deficiency in weight occasioned by such embezzlement, and also by taking off, picking or cutting out the list, forrel or other marks of any piece or pieces of cloth, by means whereof the clothiers sustain great damage and loss; and whereas the abuses committed in the clothing manufacture by persons carrying, collecting, buying and receiving from the labourers employed in that manufacture ends of yarn, wefts, thrumbs, short yarn and other refuse of cloth, drugget and other woollen goods, and goods mixed with wool, have been found very detrimental to the said manufactures; and the said frauds and abuses are frequently carried on and committed so secretly that the laws now in being are by no means sufficient to prevent the same, whereby persons employed in the said manufacture are tempted and encouraged to embezzle, purloin, secrete, sell and detain the goods and materials with which they are intrusted by the clothiers and other woollen manufacturers, so that the cloth made comes out defective in the substance, perfection and excellence intended by the clothier, to the discredit of the manufacturer and injury of the publick:" and enacts, "that if any picker, scribbler, spinner or weaver, or other person or persons whatsoever who shall be any ways employed in or about the making or manufacturing of woollen cloth, or in preparing materials for that purpose, shall not return all working tools or implements, wool, yarn, chain, woof or abb delivered out to be worked up and manufactured, and all such materials as aforesaid, wherewith he, she or they shall be intrusted, or give a satisfactory account touching the same respectively to his, her or their employer, when thereunto required by the person or persons by whom he, she or they shall have been so intrusted, or by his or their known clerk or servant, or shall fraudulently steam, damp or water the wool or yarn delivered to him, her or them to be worked up, or if any person or persons shall take off, cut or pick out the list, forrel or other mark of any piece of cloth, and shall be convicted of any such offence before some justice or justices of the peace for the county [&c.] where the person or persons so offending shall reside . . . every such person so convicted shall be committed to the house of correction for the space of one calendar month."

Sect. 2. Power to justice, where persons abscond and sell tools or materials, or fraudulently buy or receive the same, to issue warrant to constable to search; and constable may seize

tools, &c. and bring the persons in whose custody they are found before the same or other justice.

Sect. 3. Justice to allow a reasonable time for producing persons or witnesses, and accused person to enter into recognizances, with or without sureties, to appear.

Sect. 4. Justice upon information may issue warrant to search for and seize refuse of cloth, and to bring persons in whose possession found before him or another justice.

Sect. 5. Offenders, on a second offence, to be dealt with by justices at quarter sessions in a summary way, and liable to three months' imprisonment.

Sect. 6. If previous conviction at quarter sessions, offender liable to six months' imprisonment and whipping.

Sect. 7. Appeal to quarter sessions from summary conviction.

Sect. 8. Form of conviction.

Sect. 9. Conviction to be returned to sessions.

Sect. 10. Information for offences to be within three months.

#### 14 GEO. 3, c. 44.

*An Act to amend an Act made in the Twenty-second Year of the Reign of his late Majesty King George the Second, intituled "An Act for the more effectual preventing of Frauds and Abuses committed by Persons employed in the Manufacture of Hats, and in the Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair and Silk Manufactures, and for preventing unlawful Combinations of Journeymen Dyers and Journeymen Hot Pressers, and of all Persons employed in the said several Manufactures, and for the better Payment of their Wages" (n).*

Sect. 1. Reciting that the punishments inflicted by the act 22 Geo. 2, c. 27, for reeling false or short yarn, were too severe, on which account offenders went frequently unpunished, and many honest, industrious persons were deterred from spinning, repealed so much of the recited act as subjected any person to punishment for reeling false or short yarn (o).

(n) See the recited act 22 Geo. 2, c. 27, *ante*, p. 215, and note (f). This act (14 Geo. 3, c. 44) made no provision for the recovery of penalties, but this defect was remedied by 15 Geo. 3, c. 14.

(o) This section (1) was repealed by the Statute Law Revision Act, 1871, but it is necessary to refer to it to render the rest of the act intelligible. The introduction of steam power and machinery and



Sect. 2. Penalties for reeling false or short yarn, not exceeding 20s. and not less than 5s. ; for the second offence, not exceeding 5*l.* and not less than 2*l.*, and for a third or other offence, one month's hard labour, and to be whipped.

Sect. 3. Form of conviction.

Sect. 4. Copy of conviction to be delivered to any applicant.

Sect. 5. Appeal to quarter sessions.

### 17 GEO. 3, c. 11.

*An Act for more effectually preventing Frauds and Abuses committed by Persons employed in the Manufactures of combing Wool, Worsted Yarn and Goods made from Worsted in the Counties of York, Lancaster and Chester.*

Sect. 1. Recites 22 Geo. 2, c. 27 (*p*), 14 Geo. 3, c. 44 (*q*), and 15 Geo. 3, c. 14 (*r*), and reciting that "the good purposes of the said laws have been greatly frustrated, from the manufacturers of combing wool, worsted yarn and goods made from worsted, being unwilling to expose themselves singly to the loss attending the resentment of the spinners and workpeople, by prosecuting them for offences against the said acts ;" and that "this important branch of the woollen manufactory will be greatly prejudiced thereby, unless the manufacturers are enabled jointly to carry these laws into effectual execution."

The section then provides for a general meeting of the manufacturers of the three counties, and the election of a committee, and the appointment of inspectors. Sects. 2 to 7 relate to meetings and powers of committal. Sect. 8 empowers justices of West Riding to appoint inspectors of worsted yarn, and by sect. 9 committee to station inspectors and allow them salaries. Sect. 10 requires inspectors to use diligence in prosecuting offenders. Sect. 11 contains directions how worsted yarn shall be reeled, and sects. 12—14 impose penalties for false reeling and on agents and persons for having possession of worsted yarn not properly reeled. Sect. 15 provides for the appointment of inspectors on vacancies by death or removal, and sect. 16 for their punishment for screening offenders from

other legislation has rendered the act apparently obsolete. The repeal of the general penal provisions of master and servant law, may how-

ever cause its occasional use again.

(*p*) See *ante*, p. 215.

(*q*) *Ante*, p. 221.

(*r*) *Ante*, p. 221, note (*n*)

justice (*s*). Sect. 20 gives a form of conviction. Sects. 21—22 relate to appeal. Sect. 23 proceedings not to be quashed for want of form. Sect. 24. Limitation of actions, general issue and treble costs. Sect. 24 public act.

---

## 17 GEO. 3, c. 55.

*An Act for the better regulating the Hat Manufactory*(*t*).

Sect. 2. Master hat makers to employ a journeyman for every apprentice.

Sect. 3. Recites 22 Geo. 2, c. 27 (*u*), requires recognizance on appeal to sessions.

Sect. 6. Hat maker not to act as a justice of the peace in execution of the act.

Sect. 7. Act not to repeal 22 Geo. 2, c. 27.

Sect. 8. Appeal to sessions.

Sect. 9. Limitation of actions. Sect. 10. Pleading general issue and double costs (*x*).

Sect. 11. Public act.

(*s*) Sects. 17, 18 and 19 (providing for expenses of the act), and so much as relates to the limitation of actions for anything done in pursuance of the act as to pleading of the general issue, and as to treble costs, repealed by Statute Law Revision Act, 1861. The rest of the act is printed in the revised

edition of the statutes.

(*t*) Part of sect. 3 and sect. 4 were repealed by 6 Geo. 4, c. 129; ss. 1 and 5 by Statute Law Revision Act, 1871. The rest of the act is printed in the revised statutes.

(*u*) See *ante*, p. 215.

(*x*) Repealed as to double costs, 5 & 6 Vict. c. 97, s. 2.

---

## 17 GEO. 3, c. 56.

*An Act for amending and rendering more effectual the several Laws now in being for the more effectual preventing of Frauds and Abuses by Persons employed in the Manufacture of Hats, and in the Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair and Silk Manufactures, and also for making Provisions to prevent Frauds by Journeymen Dyers (y).*

Sect. 1. Recites 22 Geo. 2, c. 27, s. 1 (z), "And whereas it is thought necessary to vary the punishment for the offences hereinbefore recited:" and enacts that so much of the said recited act as prescribes what the punishment shall be in any of the cases before mentioned, or before whom such conviction shall be had, whether for a first offence or a second or any subsequent offence, shall be repealed; and instead of inflicting the punishment so directed the justices of the peace before whom the conviction shall be shall commit the person convicted to the house of correction or other public prison, there to be kept to hard labour, in the case of a first offence, for any time not less than fourteen days nor more than three months, and in the case of a second or any subsequent offence, for any time not less than three months nor more than six months, and may likewise, for the first or for any subsequent offence, order the person convicted to be once publicly whipped if such additional punishment shall by the said justice or justices be deemed proper.

Sect. 2. No person charged with any offence against the 22 Geo. 2, c. 27, shall be liable to be convicted unless before two or more justices of the peace for the county, riding, division, city, liberty, town or place where the offence shall be committed; anything contained in the said recited act to the contrary hereof notwithstanding.

(y) By 6 & 7 Vict. c. 40, so much of the 17 Geo. 3, c. 56, "as relates to the woollen, linen, cotton, flax, mohair, and silk manufactures, or any of them, or any manufactures whatsoever made of wool, cotton, flax, mohair, or silk materials, whether the same be or be not mixed with each other or with any other materials," so far as respects "the manufactures, trades, occupations, and employments following (that is to say), the manufacture of woollen, worsted, linen, cotton, flax, mohair, or silk materials in, on, or by the stocking-frame, warp-machine, or any other machine em-

ployed in the manufacture of framework, knitted or looped fabrics, and every trade, occupation, operation, or employment whatsoever connected with or incidental to the manufacture of stockings, gloves and other articles of hosiery," was repealed (6 & 7 Vict. c. 40, ss. 1 and 34). The 17 Geo. 3, c. 56, extended however to Scotland, and the repeal only applies to England (see 6 & 7 Vict. c. 40, s. 33).

The 38 & 39 Vict. c. 86, s. 17, repealed ss. 8 & 9 of 17 Geo. 3, c. 56 (see *ante*, p. 202).

(z) See *ante*, p. 215.



Sect. 3. Recites 22 Geo. 2, c. 27, s. 2, and that "it is thought necessary to increase the pecuniary penalties directed by the said recited act for the said offences last mentioned, and to vary the application of the said penalties for the same, and further to change the consequences of non-payment." And repeals so much of the 22 Geo. 2, c. 27, "as enacts what the penalty or punishment shall be for such buying, receiving, accepting or taking by way of gift, pawn, pledge, sale or exchange, or in any other manner, as is described by the said act in the terms aforesaid, and how such penalty shall be applied, and what punishment shall be inflicted in case of non-payment;" and instead thereof enacts that "the penalty for the first offence shall be any sum not more than forty pounds nor less than twenty pounds, as the justices before whom the conviction shall be shall judge to be most proper; and every such pecuniary penalty shall be applied, under the direction of the justices before whom the conviction shall be, in manner following; (that is to say,) in the first place, the expenses of the prosecution shall be thereout defrayed, and then such satisfaction shall be made thereout to the party or parties injured as the said justices shall think proper, and afterwards so much of the said penalty shall be paid to the informer or informers as such justices shall think fit, not exceeding in any case ten pounds, and the remainder, if any, shall be paid and distributed to and amongst the poor of the parish, town or place where the conviction shall be, or for the use of such public charity or charities as such justices shall appoint." (The remainder of section provides for enforcement of penalties.)

Sect. 4. Provides for quarter sessions dealing with second offences.

Sect. 5. Recites that "many frauds are practised in respect to such materials as aforesaid, by persons who sell them knowing them to have been purloined or embezzled;" and enacts that "if any person shall sell, pawn, pledge, exchange or otherwise unlawfully dispose of, or offer to sell, pawn, pledge, exchange, or otherwise unlawfully dispose of, any such materials as aforesaid, whether wrought or unwrought, mixed or unmixed, knowing them to have been purloined or embezzled, every such person lawfully convicted shall be liable to the same punishment as he or she would be liable to by virtue of this act on being convicted of receiving purloined or embezzled materials knowing them to have been purloined or embezzled."

Sect. 6. Recites that "such materials as aforesaid which have been purloined or embezzled are frequently received by persons knowing the same to have been so purloined or embezzled, and such materials being afterwards worked up or otherwise disposed of renders it difficult to convict such offenders;" and enacts that "when any person or persons shall

be brought or charged upon oath before any two or more justices of the peace, by virtue of this act, with being suspected of or with having purloined or embezzled or with having received any such materials as aforesaid, whether the same be wrought or unwrought, mixed or unmixed, knowing the same to have been either purloined or embezzled or received from some person or persons not entitled to dispose thereof, and it shall be made appear upon the oath or (being of the people called quakers) upon the affirmation of one or more credible witness or witnesses, to the satisfaction of such justices, that such person or persons hath or have purloined or embezzled or hath or have received any such materials as aforesaid, knowing the same to have been purloined or embezzled or received from some person or persons not entitled to dispose thereof, it shall and may be lawful for such justices, or for the justices at their general or general quarter sessions of the peace, and they are hereby respectively authorized and empowered (if they shall think fit) to convict such person or persons of having purloined or embezzled or of having received such materials as aforesaid, knowing the same to have been purloined or embezzled or received from some person or persons not entitled to dispose thereof, although no proof shall be given to whom such materials belong; and the person or persons so convicted shall for every such offence be subject to such and the like penalties and punishments, at the discretion of such justices respectively, as persons convicted of buying or receiving any such materials as aforesaid, knowing the same to have been purloined or embezzled, are by this act subject and liable to."

Sect. 7. Recites 22 Geo. 2, c. 27, s. 7 (*ante*, p. 215), and substitutes eight for twenty-one days as the time allowed for returning work.

Sect. 8. Repealed by 38 & 39 Vict. c. 86, s. 17, *ante*, p. 202.

Sect. 9. Recites that "it frequently happens that persons receive the said materials in fictitious names, in order to be manufactured, and that persons receive such materials in their own names, in order to be manufactured by themselves, and afterwards deliver the same to others to be manufactured, without the knowledge or consent of the owners thereof, and that carriers, or other persons employed to deliver materials to workmen to be prepared or manufactured, do designedly deliver such materials to other persons than those intended by the owner of such materials;" and enacts that "if any person shall receive any of the aforesaid materials in a fictitious name, in order to be manufactured, or if any person shall receive in his or her own name any of the said materials, in order to be manufactured by himself or herself, and afterwards deliver the same, or any part thereof, to any other person to be manufactured (without the consent of the owner thereof), or if any



carrier, or other person employed to deliver any such materials to any workman to be prepared or wrought up, shall designedly deliver the same to any other person than the person to whom such materials were ordered or intended to be delivered by the owner thereof, all and every person and persons offending in any of the cases aforesaid shall for every such offence be liable to prosecution, in the same manner and to the same punishment as is by this act directed in respect to persons taking in any of the said materials in order to work-up, and afterwards wilfully neglecting or refusing the performance of their work for the space of time aforesaid."

Sect. 10. Provides for search warrants and arrest of persons in whose possession materials are found.

Sect. 11. Arrest of suspected persons carrying property supposed to have been purloined.

Sect. 12. Justices may, at the request of persons brought before them, appoint a reasonable time to produce the persons entitled to dispose of the materials, &c., on the persons making such request entering into a recognizance, &c.

Sect. 13. On any person being convicted of a misdemeanor as aforesaid the materials so found shall be deposited in the hands of the churchwardens, &c.; and if any person can prove his property in the said materials, they shall be delivered to him, on paying the charges of removing, &c., but if no person prove his property in them, they shall be sold, &c.

Sect. 14. "Every person deemed and adjudged guilty of a misdemeanor, in having in his or her possession any materials suspected to be purloined or embezzled, and not producing the party or parties, being duly entitled to dispose of the same, of whom he or she bought or received the same, nor giving a satisfactory account how he or she came by the same, or of a misdemeanor in having, carrying or conveying of the said materials suspected to be purloined or embezzled, and not producing the party or parties, being duly entitled to dispose of the same, of whom he or she bought or received the same, nor any credible witness to testify upon oath or (being of the people called quakers) upon solemn affirmation the sale or delivery thereof, nor giving a satisfactory account how he or she came by the same (as the case shall be), shall for every such misdemeanor forfeit, for the first offence, the sum of twenty pounds, and for the second offence the sum of thirty pounds, and for every subsequent offence the sum of forty pounds." [The rest of the section relates to the enforcement and application of penalties.]

Sect. 15. Recites that "it sometimes happens, by occasion of the very long detention of such materials as aforesaid, delivered out to journeymen or other persons employed to work up the same, it cannot be known to the master or owners of such



materials whether the same may have been purloined or embezzled, or whether the said materials are wholly or in part wrought or begun to be wrought, or in what state or condition such materials may be ;” and for remedy whereof enacts “that it shall be lawful for the owner or owners of any such materials, from time to time, as occasion shall require, to demand entrance, and enter, at all seasonable hours in the day-time, into the shops or outhouses of any person or persons employed by him or them to work-up any of the said materials, or other place or places where the work shall be carried on, and there to inspect the state and condition of such materials.” [Penalty for refusal.]

Sect. 16. All penalties in the act 22 Geo. 2 and in this act, relating to the said materials, shall be applicable to the tools, &c. with which any person is entrusted for manufacturing the same.

Sect. 17. Recites that “journeymen dyers, servants and apprentices frequently abuse the trust reposed in them, by dyeing goods for their own profit, without the consent of their masters,” and enacts that “if any person hired, retained, or employed as a journeyman dyer, or as a servant or apprentice, in the dyeing of any felt or hat, or any woollen, linen, fustian, cotton, leather, fur, flax, mohair, or silk materials, whether the same shall be wrought or unwrought, or shall be mixed or unmixed with other of the said materials, shall, without the consent of the master, person or persons, by whom such journeyman, servant or apprentice, shall be hired, retained, or employed, wilfully dye any of the said materials, whether wrought or unwrought, or mixed or unmixed with other of the said materials, or without such consent shall wilfully receive any such materials as aforesaid, for the purpose of dyeing the same, whether the same shall be dyed or prepared for dyeing, he or she so guilty of either of the said offences shall for the first offence forfeit the sum of ten shillings, and for the second offence the sum of twenty shillings, and for every subsequent offence the sum of forty shillings ; or if any person shall procure any such materials as aforesaid to be dyed by any person so hired, retained, or employed as a journeyman, servant or apprentice, without the consent of his or her master or employer, or shall offer any such materials to any such journeyman, servant or apprentice, for the purpose aforesaid, he or she so offending, being thereof lawfully convicted by the oath or (being of the people called quakers) affirmation of one or more credible witness or witnesses, before two or more justices of the peace for the county, riding, division, city, liberty, town, or place where the offence shall be committed, shall for the first offence forfeit the sum of five shillings, and for the second offence the sum of twenty shillings, and for every subsequent offence the sum of four

pounds ; and each of the said penalties shall be paid to the informer or informers.” [Imprisonment in case of nonpayment.]

Sect. 18. Repealed by Statute Law Revision Act, 1861.

Sect. 19. Repealed by 38 & 39 Vict. c. 86, s. 17, *ante*, p. 202.

Sect. 20. Appeal against orders and judgment of justices under act, or under 12 Geo. 1, c. 34, or 22 Geo. 2, c. 27.

Sects. 21, 22. Form of and filing convictions against act, or against 22 Geo. 2, c. 27.

Sect. 23. No repeal of former law, except as expressly provided.

Sect. 24. Repealed, Statute Law Revision Act, 1871.

Sect. 25. Limitation of actions, general issue, and costs.

### 28 GEO. 3, C. 55.

*An Act for the better and more effectual Protection of Stocking Frames, and the Machines or Engines annexed thereto, or used therewith ; and for the Punishment of Persons destroying or injuring of such Stocking Frames, Machines, or Engines, and the Framework-knitted Pieces, Stockings, and other Articles and Goods used and made in the Hosiery or Framework-knitted Manufactory ; or breaking or destroying any Machinery contained in any Mill or Mills used, or any way employed in preparing or spinning of Wool or Cotton for the Use of the Stocking Frame.*

Sect. 1. Recites that “ the frames for making of framework-knitted pieces, stockings, and other articles and goods in the hosiery or framework-knitted manufactory, are very valuable and expensive machines, and generally the property of the hosier or manufacturer, who lets the same to hire to his workmen, or framework-knitters ; and it hath frequently happened that the hosier, or manufacturer, being the owner or employer of such frame or frames, and having so put and let the same out to hire, and wanting, for the accommodation of his trade and business, to take and remove such frame or frames from the use and possession of one workman into the hands and custody of another, and having for such purpose given the customary and usual notice to the workman in whose hands or custody such frame was, so to deliver up the same, such workman hath wilfully detained and withheld the same, and sometimes absolutely and unlawfully sold and disposed thereof, to the great grievance, inconvenience, and loss of such hosier or manufacturer.” . . . “ That if any framework-knitter or frame-



work-knitters, who shall or may rent or take by the hire, any stocking frame or frames, either with or without any machine or engine thereto annexed, or therewith to be employed, of and from any person or persons whomsoever, shall at any time, from and after the passing of this act, refuse to yield up and re-deliver such frame or frames, with the machine or engine therewith let (if any such there shall be) to the person or persons of whom he or they shall or may so rent the same, having received from such person or persons fourteen days previous notice for such purpose, then, and in every such case, the person so offending, being thereof lawfully convicted by the oath or (if the owner or employer thereof be of the people called quakers) solemn affirmation of the owner or employer of such frame or frames, or by the oath or affirmation of any other credible witness or witnesses, before any one or more justice or justices of the peace of the county, riding, division, city, liberty, town, or place, where such offence shall be committed, or where the person or persons so charged shall reside or inhabit (which oath or affirmation the said justice or justices is and are hereby empowered and required to administer), the person or persons so offending shall, for every such offence, forfeit the sum of twenty shillings to and for the use of the poor of the parish where such offence shall be committed." [Punishment in default.]

Sect. 2. "That if any person so renting or taking to hire any stocking frame, with or without any such machine or engine as aforesaid, shall at any time, from and after the passing of this act, sell or otherwise unlawfully dispose of any such stocking frame, or the machine or engine therewith let (if any such there shall be), without the consent of the owner or owners thereof, every such offender, being thereof lawfully convicted upon any indictment to be found against him, shall suffer solitary imprisonment in the common gaol or house of correction of the county, riding, division, city, liberty, town or place wherein such offence shall have been committed, without bail or mainprize, for a space not less than three calendar months, nor exceeding twelve calendar months."

Sect. 3. "If any person or persons shall wilfully and knowingly receive or purchase any such stocking frame, machine or engine so sold or unlawfully disposed of as aforesaid, contrary to the true intent and meaning of this act, and shall thereof be lawfully convicted on any indictment to be found against him or them, every such offender or offenders shall be subject to such and the like punishment as by this act is inflicted or provided to be inflicted on such person so selling or unlawfully disposing of any such stocking frame, machine or engine as aforesaid."

Sect. 4. Repealed, Statute Law Revision Act, 1871.

---



## 32 GEO. 3, c. 56.

*An Act for preventing the Counterfeiting of Certificates of the Character of Servants.*

Sects. 1 to 6. Penalty of 20*l.* on any person personating a master, &c. or giving a false character to a servant; or asserting that a servant has been hired for a period of time or in a station; or was discharged at any other time, or had not been hired in any previous service, contrary to the fact; or any person offering himself as a servant, pretending to have served where he has not served, or with a false certificate, or who shall alter any certificate; or who having been before in service shall pretend not to have been in such service.

Sect. 7. Repealed, Statute Law Revision Act, 1871.

Sect. 8. Offender discovering accomplice before information, indemnified.

Sect. 9. Conviction.

Sect. 10. Appeal to quarter sessions.

## 39 &amp; 40 GEO. 3, c. 77.

*An Act for the Security of Collieries and Mines, and for the better Regulation of Colliers and Miners (a).*

Sect. 4. "And whereas the owners and lessees of coal, iron stone, or iron ore, contracting to get the same raised by weight, are often under the necessity of advancing money to the colliers and miners upon the measure thereof in heaps at or near the colliery or mine work before the same can be carried to be weighed, and great frauds are practised in the walling and stacking of such coal, iron stone, and iron ore, by which the colliers and miners obtain money beyond what they earn or are able to repay, and miners often defraud each other by conveying away iron stone from one heap into another; be it therefore further enacted, that if any person or persons shall wall or stack, or cause to be walled or stacked, any coal, iron stone, or iron ore in any false or fraudulent manner, with an intent to deceive his or their employer or employers, or if any person or persons shall take or remove any iron stone or iron ore with

(a) Sections 1, 2, 5, and 7 of this act were expressly repealed by the Statute Law Revision Act, 1871; sect. 3 is repealed by the 38 & 39

Vict. c. 86, s. 17 (see *ante*, p. 202). Sects. 6, 7, 8, and 10 are immaterial in relation to sect. 4.

intent to defraud the person or persons who shall have raised the same, and shall be thereof convicted, either by the confession of the party offending or upon the oath of one or more credible witness or witnesses, before any one or more justice or justices of the peace for the county wherein such offence shall have been committed, it shall and may be lawful for such justice or justices to commit any such person to the house of correction or common gaol for the same county, for any time not exceeding three months."

Sect. 9. "No person shall be prosecuted for any offence against this act unless such prosecution be begun within nine calendar months after the offence committed."

---

43 GEO. 3, c. 86.

*An Act to prevent Unlawful Combinations of Workmen, Artificers, Journeymen and Labourers in Ireland, and for other purposes relating thereto.*

Sects. 1 to 5 and sect. 10, repealed by 6 Geo. 4, c. 129, s. 2. Sect. 8 repealed by 9 Geo. 4, c. 53. Sects. 15 and 16, and also part of sect. 20 and schedule, repealed by Statute Law Revision Act, 1872.

Sects. 6 and 7 have not been repealed. Sect. 6 makes workmen refusing to work, or absenting from work, or returning work before it is finished, liable to imprisonment for six months, or for three months with hard labour. This section ought not to be treated by magistrates as in force. Sect. 7 imposes a penalty on masters knowingly employing a workman already employed by another.

---

5 GEO. 4, c. 96.

*An Act to consolidate and amend the Laws relative to the Arbitration of Disputes between Masters and Workmen.*

[See this act in Lovesy's Law of Arbitrations between Masters and Workmen.]

---

## 1 &amp; 2 WILL. 4, c. 37.

*An Act to prohibit the Payment, in certain Trades, of Wages in Goods, or otherwise than in the current Coin of the Realm.*

*Contracts for the hiring of Artificers must be made in the current Coin of the Realm.*]—Sect. 1. Whereas it is necessary to prohibit the payment, in certain trades, of wages in goods, or otherwise than in the current coin of the realm; be it therefore enacted by the king's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, That in all contracts hereafter to be made for the hiring of any artificer in any of the trades hereinafter enumerated, or for the performance by any artificer of any labour in any of the said trades, the wages of such artificer shall be made payable in the current coin of this realm only, and not otherwise; and that if in any such contract the whole or any part of such wages shall be made payable in any manner other than in the current coin aforesaid, such contract shall be and is hereby declared illegal, null, and void.

*And must not contain any Stipulations as to the manner in which the Wages shall be expended.*]—Sect. 2. And be it further enacted, that if in any contract hereafter to be made between any artificer in any of the trades hereinafter enumerated, and his employer, any provision shall be made directly or indirectly respecting the place where, or the manner in which, or the person or persons with whom, the whole or any part of the wages due or to become due to any such artificer shall be laid out or expended, such contract shall be and is hereby declared illegal, null, and void.

*All Wages must be paid to the Workman in Coin—Payment in Goods declared illegal.*]—Sect. 3. And be it further enacted, that the entire amount of the wages earned by or payable to any artificer in any of the trades hereinafter enumerated, in respect of any labour by him done in any such trade, shall be actually paid to such artificer in the current coin of this realm, and not otherwise; and every payment made to any such artificer by his employer, of or in respect of any such wages, by the delivering to him of goods, or otherwise than in the current coin aforesaid, except as hereinafter mentioned, shall be and is hereby declared illegal, null, and void.

*Artificers may recover Wages, if not paid in the current Coin.*]—Sect. 4. And be it further enacted, that every artificer in any of the trades hereinafter enumerated shall be entitled to recover from his employer in any such trade, in the manner by law provided for the recovery of servants' wages, or by any



other lawful ways and means, the whole or so much of the wages earned by such artificer in such trade as shall not have been actually paid to him by such his employer in the current coin of this realm.

*In an Action brought for Wages no Set-off shall be allowed for Goods supplied by the Employer, or by any Shop in which the Employer is interested.*—Sect. 5. And be it further enacted, that in any action, suit, or other proceeding to be hereafter brought or commenced by any such artificer as aforesaid, against his employer, for the recovery of any sum of money due to any such artificer as the wages of his labour in any of the trades hereinafter enumerated, the defendant shall not be allowed to make any set-off, nor to claim any reduction of the plaintiff's demand, by reason or in respect of any goods, wares, or merchandize had or received by the plaintiff as or on account of his wages or in reward for his labour, or by reason or in respect of any goods, wares, or merchandize sold, delivered, or supplied to such artificer at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest.

*No Employer shall have any Action against his Artificer for Goods supplied to him on account of Wages.*—Sect. 6. And be it further enacted, that no employer of any artificer in any of the trades hereinafter enumerated shall have or be entitled to maintain any suit or action in any court of law or equity against any such artificer, for or in respect of any goods, wares, or merchandize sold, delivered, or supplied to any such artificer by any such employer, whilst in his employment, as or on account of his wages or reward for his labour, or for or in respect of any goods, wares, or merchandize sold, delivered, or supplied to such artificer at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest.

*If the Artificer or his Wife or Children become chargeable to the Parish, the Overseers may recover any Wages earned within the Three preceding Months, and not paid in Cash.*—Sect. 7. And be it further enacted, that if any such artificer as aforesaid, or his wife or widow, or if any child of any such artificer, not being of the full age of twenty-one years, shall become chargeable to any parish or place, and if within the space of three calendar months next before the time when any such charge shall be incurred such artificer shall have earned or have become entitled to receive any wages for any labour by him done in any of the said trades, which wages shall not have been paid to such artificer in the current coin of this realm, it shall be lawful for the overseers or overseer of the poor in such parish or place to recover from the employer of such artificer in whose service such labour was done the full

amount of wages so unpaid, and to proceed for the recovery thereof by all such ways and means as such artificer himself might have proceeded for that purpose; and the amount of the wages which may be so recovered shall be applied in reimbursing such parish or place all costs and charges incurred in respect of the person or persons to become chargeable, and the surplus shall be applied and paid over to such person or persons.

*Not to invalidate the Payment of Wages in Bank Notes, if Artificer consents.*]—Sect. 8. Provided always, and be it further enacted, that nothing herein contained shall be construed to prevent or to render invalid any contract for the payment, or any actual payment, to any such artificer as aforesaid, of the whole or any part of his wages, either in the notes of the governor and company of the Bank of England, or in the notes of any person or persons carrying on the business of a banker, and duly licensed to issue such notes in pursuance of the laws relating to his Majesty's revenue of stamps, or in drafts or orders for the payment of money to the bearer on demand, drawn upon any person or persons carrying on the business of a banker, being duly licensed as aforesaid, within fifteen miles of the place where such drafts or orders shall be so paid, if such artificer shall be freely consenting to receive such drafts or orders as aforesaid, but all payments so made with such consent as aforesaid, in any such notes, drafts or orders as aforesaid, shall for the purposes of this act be as valid and effectual as if such payments had been made in the current coin of the realm.

*Penalties on Employers entering into Contracts hereby declared illegal.*]—Sect. 9. And be it further enacted, that any employer of any artificer in any of the trades hereinafter enumerated, who shall, by himself or by the agency of any other person or persons, directly or indirectly enter into any contract or make any payment hereby declared illegal, shall for the first offence forfeit a sum not exceeding ten pounds nor less than five pounds, and for the second offence any sum not exceeding twenty pounds nor less than ten pounds, and in case of a third offence any such employer shall be and be deemed guilty of a misdemeanor, and, being thereof convicted, shall be punished by fine only, at the discretion of the court, so that the fines shall not in any case exceed the sum of one hundred pounds.

*Penalties how to be recovered—Second Offence—Proviso.*]—Sect. 10. And be it further enacted, that all offences committed against this act, and not hereinbefore declared a misdemeanor, shall be inquired of and determined, and that all fines and penalties for such offences shall be sued for and recovered by any person or persons who shall sue for the same, before any two justices of the peace having jurisdiction within the county,



riding, city, or place in which the offence shall have been committed; and that the amount of the fines, penalties, and other punishments to be inflicted upon any such offenders shall, within the limits hereinbefore prescribed, be in the discretion of such justices, or, in cases of misdemeanor, of the court before which the offence may be tried; and in case of a second offence against this act, it shall be sufficient evidence of the previous conviction and offence, if a certificate, signed by the clerk of the peace or other officer having the custody of the record of such previous conviction, shall be produced before the said justices inquiring of such second offence, in which certificate shall be stated in a compendious form the general nature of the offence for which such previous conviction was had, and the date of such previous conviction; and so, in like manner, upon the trial of any indictment or information for any such misdemeanor as aforesaid, it shall be sufficient evidence of such second conviction for a like offence if a certificate thereof, signed by the clerk of the peace or other officer having the custody of the record of such second conviction, in such form as aforesaid, be produced to the court and jury: provided always, that no person shall be punished as for a second offence under this act unless ten days at the least shall have intervened between the conviction of such person for the first and the conviction by such person of the second offence, but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate penalty, as though the same were a first offence; and that no person shall be punished as for a third offence under this act, unless ten days at the least shall have intervened between the conviction of such person for the second and the conviction by such person of the third offence; but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate penalty, as though the same were a second offence; and that the fourth or any subsequent offence which may be committed by any such person against this act shall be inquired of, tried and punished in the manner hereinbefore provided in respect of any third offence; and that if the person or persons preferring any such information shall not be able or shall not see fit to produce evidence of any such previous conviction or convictions as aforesaid, any such offender as aforesaid shall be punished for each separate offence by him committed against the provisions of this act by an equal number of distinct and separate penalties, as though each of such offences were a first or a second offence, as the case may be; and that no person shall be proceeded against or punished as for a second or as for a third offence at the distance of more than two years from the commission of the next preceding offence.



*Justices may compel the Attendance of Witnesses.*]—Sect. 11. And be it further enacted, that it shall be lawful for any one justice of the peace, in all cases where any information or complaint shall be made as aforesaid, and he is hereby authorized and required, at the request in writing of any of the parties to the said complaint, and on the oath of the informer or complainant, or of the person informed or complained against, that he believes that the attendance of any person or persons as a witness or witnesses will be material to the hearing of such information, to issue his summons to any such person or persons, witness or witnesses, to appear and give evidence on oath before himself and such other justice or justices as shall hear and determine such information or complaint, the time and place of hearing and determining the same being specified in the said summons; and if any person or persons so summoned shall not appear before the said last-mentioned justices at the time or place so specified in the said summons, and shall not offer any reasonable excuse for the default, to the satisfaction of the said last-mentioned justices, or appearing according to the directions of the said summons shall not submit to be examined as a witness or witnesses, then and in every such case it shall be lawful for such last-mentioned justices, and they are hereby authorized, (proof on oath, in the case of any person not appearing according to such summons, having been first made before such last-mentioned justices of the due service of such summons on every such person, by delivering the same to him or to her, or by leaving the same at the usual place of abode of such person, twenty-four hours at the least before the time appointed for such person to appear before such last-mentioned justices,) by warrant under the hands and seals of such last-mentioned justices to commit such person or persons so making default in appearing, or appearing and refusing to give evidence, to some prison within the jurisdiction of the said justices, there to remain without bail or mainprize for any time not exceeding fourteen days, or until such person or persons shall submit to be examined and give evidence.

*Power to levy Penalties by Distress.*]—Sect. 12. And be it further enacted, that all justices of the peace shall and are hereby empowered, on the conviction of any person or persons for any offence against this act, in default of payment of any penalty or forfeiture, together with the reasonable costs and charges attending such conviction, to cause the same to be levied by distress and sale of the goods and chattels of the offender or offenders, by warrant or warrants under the hands and seals of such justices, together with the reasonable costs of such distress and sale; and in case it shall appear to the satisfaction of such justices, either by the confession of the offender or offenders or by the oath of one or more credible

witness or witnesses, that he, she, or they hath not or have not goods and chattels within the jurisdiction of such justices sufficient whereon to levy all such penalties and forfeitures, costs and charges, such justices may, without issuing any warrant of distress, commit the offender or offenders to the common gaol for three calendar months (unless the same be sooner paid), in such manner as if a warrant of distress had been issued, and a return of nulla bona made thereon.

*A Partner not to be liable in Person for the Offence of his Co-partner, but the Partnership Property to be so liable.]*

—Sect. 13. And be it further enacted, that no person shall be liable to be convicted of any offence against this act committed by his or her copartner in trade, and without his or her knowledge, privity, or consent; but it shall be lawful, when any penalty, or any sum for wages, or any other sum, is ordered to be paid, under the authority of this act, and the person or persons ordered to pay the same shall neglect or refuse to do so, to levy the same by distress and sale of any goods belonging to any copartnership concern or business in the carrying on of which such charges may have become due or such offence may have been committed; and in all proceedings under this act to recover any sum due for wages it shall be lawful in all cases of copartnership for the justices, at the hearing of any complaint for the non-payment thereof, to make an order upon any one or more copartners for the payment of the sum appearing to be due; and in such case the service of a copy of any summons or other process, or of any order, upon one or more of such copartners, shall be deemed to be a sufficient service upon all.

*How Summonses are to be served.]*—Sect. 14. And it is declared and enacted, that in all cases it shall be deemed and taken to be sufficient service of any summons to be issued against any offender or offenders by any justice or justices of the peace, under the authority of this act, if a duplicate or true copy of the same be left at or upon the place used or occupied by such offender or offenders for carrying on his, her, or their trade or business, or at the place of residence of any such offender or offenders, being at or upon any such place as aforesaid, the same being directed to such offender or offenders by his, her, or their right or assumed name or names.

*Form of Conviction, &c.]*—Sect. 15. And be it further enacted, that the justices before whom any person shall be convicted of any offence against this act, or by whom any person shall be committed to the common gaol, in default of a sufficient distress, or for not appearing as a witness or not submitting to be examined, shall cause all such convictions, and the summonses for the attendance of witnesses, and the warrants or orders for such



commitments, and the warrant or order for any such distress, to be drawn up in the form or to the effect set forth in the schedule to this act annexed, with such additions or variations as may be necessary for adapting the same to the particular circumstances of the case.

*Justices to return Convictions to the Clerk of the Peace, who is to deliver Copies to Persons applying.*]—Sect. 16. And be it further enacted, that the justices before whom any conviction shall be had under this act shall cause the same to be returned to the next general or quarter sessions of the peace holden for the county or place wherein the offence shall have been committed, and the same shall then and there be delivered to the clerk of the peace, or other person acting as such, to be by him filed among the records of the said court; and such clerk of the peace, or other person acting as such, is hereby required, on the tender and payment to him of the sum of one shilling, to grant to any person or persons, on demand, a copy of any such conviction, with a certificate thereupon indorsed or thereunto annexed, that the same is a true and accurate copy of the original conviction returned to such general or quarter sessions as aforesaid.

*Convictions not to be quashed for want of Form.*]—Sect. 17. And be it further enacted, that no conviction, order, or adjudication made by any justices of the peace under the provisions of this act shall be quashed for want of form, nor be removed by certiorari or otherwise into any of his Majesty's superior courts of record; and no warrant of distress, or of commitments in default of sufficient distress, shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

*Application of Penalties.*]—Sect. 18. And be it further enacted, that out of any penalty or forfeiture incurred by any offence committed against this act it shall be lawful for the court or justices imposing the same to award any sum to the informer, not exceeding in any case the sum of twenty pounds; and the rest of any such pecuniary penalty or forfeiture shall go to the treasurer of the county in which the offence shall be committed, in aid of the rates of such county: provided always, that every proceeding whatsoever for any offence against this act shall be commenced within three calendar months after such offence shall have been committed.

*Specification of the Trades to which the Act is to apply.*]—Sect. 19. And be it further enacted, that nothing herein contained shall extend to any artificer, workman, or labourer, or other person engaged or employed in any manufacture, trade, or occupation, excepting only artificers, workmen, labourers, and other persons employed in the several manufactures, trades,



and occupations following ; (that is to say,) in or about the making, casting, converting, or manufacturing of iron or steel, or any parts, branches, or processes thereof ; or in or about the working or getting of any mines of coal, ironstone, limestone, salt rock ; or in or about the working or getting of stone, slate, or clay ; or in the making or preparing of salt, bricks, tiles, or quarries ; or in or about the making or manufacturing of any kinds of nails, chains, rivets, anvils, vices, spades, shovels, screws, keys, locks, bolts, hinges, or any other articles or hardwares made of iron or steel, or of iron and steel combined, or of any plated articles of cutlery, or of any goods or wares made of brass, tin, lead, pewter, or other metal, or of any japanned goods or wares whatsoever ; or in or about the making, spinning, throwing, twisting, doubling, winding, weaving, combing, knitting, bleaching, dyeing, printing, or otherwise preparing of any kinds of woollen, worsted, yarn, stuff, jersey, linen, fustian, cloth, serge, cotton, leather, fur, hemp, flax, mohair, or silk manufactures whatsoever, or in or about any manufactures whatsoever made of the said last-mentioned materials, whether the same be or be not mixed one with another ; or in or about the making or otherwise preparing, ornamenting, or finishing of any glass, porcelain, china, or earthenware whatsoever, or any parts, branches, or processes thereof, or any materials used in any of such last-mentioned trades or employments ; or in or about the making or preparing of bone, thread, silk, or cotton lace, or of lace made of any mixed materials.

*Domestics.*]—Sect. 20. And be it further enacted, that nothing herein contained shall extend to any domestic servant or servant in husbandry.

*Certain Persons not to act as Justices.*]—Sect. 21. And be it further enacted, that no justice of the peace, being a person also engaged in any of the trades or occupations enumerated in this act, or the father, son, or brother of any such person, shall act as a justice of the peace under this act.

*County Magistrates to act in Cases where those of Towns, &c. are disqualified as above.*]—Sect. 22. And be it further enacted, that in all cities, boroughs, or corporate towns, where the magistrates for the time being are disqualified by the foregoing clause from administering this act, then and in every such case, and so often as the same shall happen, it shall be lawful for the magistrates of the county in which the offence may be committed (and not disqualified as aforesaid) to administer, and they are hereby authorized and empowered to hear, examine, and determine any offences committed against this act, in any such cities, boroughs, or corporate towns ; and it shall be lawful for the complainant to remove the cases of information or complaint from the said cities, boroughs, or corporate towns to any other court of session or petty session not exceeding twelve

miles from the place where the offence shall have been committed ; any law, charter, usage, or custom to the contrary notwithstanding.

*Particular Exceptions to the Generality of the Law.*]

Sect. 23. And be it further enacted and declared, that nothing herein contained shall extend or be construed to extend to prevent any employer of any artificer, or agent of any such employer, from supplying or contracting to supply to any such artificer any medicine or medical attendance, or any fuel, or any materials, tools, or implements to be by such artificer employed in his trade or occupation, if such artificers be employed in mining, or any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by any such artificer in his trade or occupation ; nor from demising to any artificer, workman, or labourer employed in any of the trades or occupations enumerated in this act the whole or any part of any tenement at any rent to be thereon reserved ; nor from supplying or contracting to supply to any such artificer any victuals dressed or prepared under the roof of any such employer, and there consumed by such artificer ; nor from making or contracting to make any stoppage or deduction from the wages of any such artificer, for or in respect of any such rent ; or for or in respect of any such medicine or medical attendance ; or for or in respect of such fuel, materials, tools, implements, hay, corn, or provender, or of any such victuals dressed and prepared under the roof of any such employer ; or for or in respect of any money advanced to such artificer for any such purpose as aforesaid : provided always, that such stoppage or deduction shall not exceed the real and true value of such fuel, materials, tools, implements, hay, corn, and provender, and shall not be in any case made from the wages of such artificer, unless the agreement or contract for such stoppage or deduction shall be in writing, and signed by such artificer.

*Employers may advance Money to Artificers for certain Purposes.*]

Sect. 24. And be it further enacted and declared, that nothing herein contained shall extend or be construed to extend to prevent any such employer from advancing to any such artificer any money to be by him contributed to any friendly society or bank for savings duly established according to law, nor from advancing to any such artificer any money for his relief in sickness, or for the education of any child or children of such artificer, nor from deducting or contracting to deduct any sum or sums of money from the wages of such artificers for the education of any such child or children of such artificer, and unless the agreement or contract for such deduction shall be in writing, and signed by such artificer.

*Definition of Terms.*]

Sect. 25. And be it further enacted and declared, that in the meaning and for the purposes of this



act, all workmen, labourers, and other persons in any manner engaged in the performance of any work, employment, or operation, of what nature soever, in or about the several trades and occupations aforesaid, shall be and be deemed "artificers;" and that within the meaning and for the purposes aforesaid, all masters, bailiffs, foremen, managers, clerks, and other persons engaged in the hiring, employment, or superintendence of the labour of any such artificers, shall be and be deemed to be "employers;" and that within the meaning and for the purposes of this act, any money or other thing had or contracted to be paid, delivered, or given as a recompense, reward, or remuneration for any labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain, shall be deemed and taken to be the "wages" of such labour; and that within the meaning and for the purposes aforesaid, any agreement, understanding, device, contrivance, collusion or arrangement whatsoever on the subject of wages, whether written or oral, whether direct or indirect, to which the employer and artificer are parties or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them, shall be and be deemed a "contract."

*Commencement of Act.*—Sect. 26. And be it further enacted, that this act shall not commence or take effect till the expiration of three calendar months next after the day of passing the same.

*To extend over Great Britain.*—Sect. 27. And be it further enacted, that the provisions of this act shall extend over the whole of that part of the United Kingdom of Great Britain and Ireland called Great Britain.

[Forms of conviction, summons to witness, warrant of commitment of a witness, warrant to distrain for forfeiture, and of commitment for want of distress, are given in a schedule. See also Oke's Magisterial Formulist, and the forms given by Jervis' Act, 11 & 12 Vict. c. 43.]

For the object and policy of this important statute, commonly called "the Truck Act," see the invaluable judgment of Baron Bramwell in the Exchequer Chamber in *Archer v. James*, 2 B. & S. 94; 31 L. J., Q. B. 163.

As it is more than probable that "disputes" between an employer and a workman brought before a court of summary jurisdiction under the Employers and Workmen Act, 1875, will involve questions as to the effect of this statute, it will be useful to give the result of the various, and, to a great extent, conflicting opinions of the courts in cases arising out of it.

The provisions of the act are cumulative: first, the employer is to pay his wages in money; secondly, payment otherwise than in money is void; thirdly, payment otherwise than in money is illegal and punishable as an



offence. (Willes, J., *Fisher v. Jones*, 13 C. B. Rep., N. S. 501 ; 32 L. J., M. C. 177.)

*First, the persons to whom the statute applies.]* This question depends chiefly on sect. 19. The act “is to be taken as applicable to those persons only who strictly contract as labourers, that is, to such as enter into a contract to employ their personal services and to receive payment for that service in wages.” (Parke, B., in *Riley v. Warden*, 2 Exch. Rep. 59 ; 18 L. J. Rep. (N. S.) Exch. 120.) In that case it was held that a person contracting to make a cutting on a projected line of railway, at a certain sum per cubic yard, and employing others with whom he himself worked in making the cutting, was not within the act ; so a person agreeing to load ironstone at so much per ton, and employing men to do the work under him and from time to time working personally, but not having stipulated for his own personal labour, was held not to be within the act. (*Sharman v. Sanders*, 13 C. B. Rep. 166 ; 20 L. J. Rep. (N. S.) C. P. 99.)

This was followed by the case of a collier (in Staffordshire called a charter master or buttly collier) employed by a colliery or mine owner to get coal or ironstone from a mine, and to be paid at a certain rate per ton on the coal got by him, he having liberty to employ, and almost necessarily employing others under him. In most cases a charter master or buttly collier has partners (hence the term “buttly”) who work with him, although they may or may not be parties to the agreement or undertaking entered into with the colliery proprietor or mine owner.

In the first case of this kind before the courts, it appeared that the collier was bound to give his personal services in the performance of the work, and Patteson, J., held that he was within the Truck Act. (*Weaver v. Floyd*, 21 L. J. Rep. (N. S.) Q. B. 151.)

In the subsequent case of *Bowers v. Lovekin* (6 E. & B. 584 ; 25 L. J. Rep. (N. S.) Q. B. 371), the agreement was made verbally by the colliery agent with the buttly colliers to get ironstone at so much a square yard. No particular quantity was stipulated to be gotten in any specified time. The buttly colliers employed a number of men under them. They were themselves treated as working men, by having their wages bill rendered weekly, by being served with notice of the regulations of the colliery in respect to workmen’s rules, and one of them having been dismissed for absence and then taken on again as any other workman, and they engaged to bestow their personal labour in the work. The Court of Queen’s Bench (Lord Campbell, C. J., and Coleridge, Erle, and Crompton, JJ.) were of opinion that the buttly colliers were “artificers” within the Truck Act, upon the ground that personal labour was required of them. Lord Campbell also inclined to think that the statute included cases where personal labour was not stipulated for ; and Erle, J., expressed a stronger opinion to that effect, namely, that the act was not confined to cases where the workman engaged to give his personal services, but that it applied to contracts for work by the piece when it was *consistent* with the contract that the party should work personally, and he has actually done so. That case

was followed by *Ingram v. Barnes* (7 E. & B. 115; 26 L. J., Q. B. 82), now the leading authority on the subject, where it was held by the majority of the Court of Queen's Bench (Lord Campbell, C. J., and Coleridge and Wightman, JJ.; Erle, J., dissenting) and affirmed on appeal (7 E. & B. 132; 26 L. J., Q. B. 319), that a labouring man who entered into a written contract with a railway contractor to make as many bricks as the contractor required, taking the clay and finding all labour in preparing it, the railway contractor finding all materials and paying so much a thousand for the bricks when finished, was not within the Truck Act, on the ground that there was no contract to do the work personally. Erle, J., in the court below, adhered to his opinion in *Bowers v. Lovekin*, that a contract is within the act, although the party contracting has the option of doing the work by himself or others, if he actually works himself, so as to make the performance as well as the contract within the act. In the court of appeal, during the argument some of the judges referred to the Master and Servant Act, and put the question whether, supposing the brickmaker had deserted his work, he could have been sent to prison under the Master and Servant Act, or whether he could have enforced payment of his wages under that act, and Cockburn, C. J., expressed a clear opinion that he could not have so recovered his wages. The court distinguished *Bowers v. Lovekin*, on the ground that there was a contract for personal labour. *Lawrence v. Todd* (see *ante*, p. 114) came next, under the now repealed Master and Servant Act, 4 Geo. 4, c. 34. That case was in the Common Pleas, and two of the judges who concurred in the judgment of Erle, J., namely, Williams and Willes, JJ., were members of the court of appeal in *Ingram v. Barnes*. *Lawrence v. Todd* has been followed, however, by the case of *Sleeman v. Barrett* (2 Hurls. & C. 934; 33 L. J. (N. S.) Ex. 153), where it was held by the Court of Exchequer that butty colliers working under verbal contracts made with a colliery owner, generally by the day but also by the ton or yard, they not being allowed to underlet the work or to work elsewhere, but doing it as they liked, and in fact working manually themselves and employing men under them, for whose wages they were responsible, were not within the Truck Act. Pollock, C. B. (who expressed his dissent from the opinion of Erle, J., in *Bowers v. Lovekin*), founded his judgment, not so much on the question of a man personally labouring, as on the distinction between a contract for labour and a contract for the result of labour or the effect that labour is to produce (as a contract for the removal of a large quantity of clay): Bramwell and Channell, BB., rested their judgments partly on the ground that there was no contract with an artificer for labour to be paid wages, and Martin, B., resting on the authorities.

The question of what facts constituted a contract within the Truck Act came again before the Court of Common Pleas (Montague Smith and Brett, JJ.) in *Pillar v. Llynvi Coal and Iron Company*, 38 L. J., C. P. 294; L. R., 4 C. P. 752. The plaintiff was a tinman, the defendants were a company raising coal and making iron. The plaintiff was verbally employed by the defendants, and worked for several years. His engage-



ment was to work either at piece work or by day, at the defendants' option, the piece work being the making of kettles, &c., at fixed prices, out of materials supplied by defendants at varying prices; the day work being the repairing of the defendants' buildings. The plaintiff was paid like the other workmen employed by the defendants, that is to say, by intermediate "draws," with accounts made out about every eight weeks; but he was at liberty to perform the piece work at his own house, and at times worked for other persons. It was held that the plaintiff was obliged to give his personal services, and was therefore an artificer within the act. In giving judgment, after considering this and other questions, Sir M. Smith said: "It was contended for the defendants that the plaintiff was not a workman but a tradesman, and therefore not an artificer, but on a review of the evidence we draw a different inference from the facts, and come to the conclusion that he was an artificer within the meaning of the act." After referring to the 25th section, the learned judge proceeded: "These are very large words, but we have not to construe them unaided, and we must be guided by the judicial interpretation which has been already given to them. It is unnecessary to comment on the other cases which were cited, and it is sufficient to refer to the leading authority of *Ingram v. Barnes*. The result of that decision is that a man is not an artificer within the act unless the employer has, by the contract of hiring, a right to require his personal work and labour in return for 'wages;' of course as wages are defined by the act. With respect to the piece work, it appeared that the plaintiff was at liberty to make the articles at his own house; and it was contended for the defendants that it followed from this that he might employ others to work upon them. It also appeared that he occasionally worked for other people. Having regard to these facts and to the mode in which the materials were supplied and charged to him, it was contended that the plaintiff was employed in the character of a tradesman and did not contract for his personal labour. Undoubtedly these views require to be considered in coming to a conclusion as to the true nature of the contract; but after giving due effect to them, we think they are outweighed by the rest of the evidence, which, on the whole, satisfies us that the personal labour and skill of the plaintiff was the essence of the contract."

*Illegal payments.*—With regard to what are illegal payments under the statute, it has been held that giving "shop notes" in payment of wages, those notes being exchanged for goods, constituted a payment in goods under sect. 3, by the delivery of the notes, so as to make the offence complete at the time of the delivery of the notes, and thus give justices power to convict under sect. 9, although the place where the goods were delivered was not within their jurisdiction. (*Athersmith v. Drury*, 1 E. & E. 46; *S. C. nom Ashersmith v. Drury*, 28 L. J., M. C. 5.)

So where the payments were made thus: There were pay days every eight weeks or so, and intermediate draw days; on the draw days cheques for small amounts were given on a bank nine miles from the works; on the pay days accounts were made out in which the cheques were entered as cash advanced, certain deductions made, and the balance, if any, paid in



cash ; the cheques were always taken to the defendant's shop, where they were exchanged ; they were exchanged in the proportion of four shillings in the pound in cash, the rest in goods, and it was well understood that a workman not taking them to the shop would be discharged. The deductions made from the plaintiff's wages were for the materials supplied for his piece work, certain coal he wanted, and doctor's sick and school fund. It was held that the payment by cheque was a subterfuge, and that the plaintiff did not freely consent to receive them ; and therefore, so as to make a good payment under sect. 8, the plaintiff was entitled to recover the amount of wages paid in goods ; that he could not, however, recover the deductions for materials and coals ; fourthly, that as there was no writing as required by sects. 23 and 24, he could recover as respects the deductions for doctor's sick and school fund. (*Pillar v. Llynvi Coal and Iron Company*, cited *ante*, p. 244, on another point.) Even if the artificer might have had payment in money had he been so pleased, it does not make the payment valid ; nor does a subsequent payment of the wages in cash avoid the penal consequences attaching to an illegal payment. (*Wilson v. Cookson*, and *Fisher v. Jones*, 13 C. B. Rep., N. S. 496, 501 ; 32 L. J., M. C. 177.)

*Deductions from Wages.*—Great difficulty has been found in determining the effect of the act, and more especially of sects. 23 and 24, on the question as to deductions from wages permitted by the act. In the first place a difficulty has arisen in determining what constitutes a "stoppage or deduction" from fixed wages, as distinguished from items subtracted in order to arrive at the wages payable. It had been held by the Court of Queen's Bench that the then usual deductions in the hosiery manufacture, namely, (1) frame rent, (2) machine rent, (3) a sum for the use of the factory and for standing room, (4) a sum for winding the yarn, (5) fines for absence, (6) gas, and (7) firing, might be treated, not as deductions from wages of so much a dozen for the manufactured article, but that the real wages were ascertainable after these items were calculated ; and that, therefore, they were not stoppages or deductions to which the act applies, and, consequently, not matters requiring a written agreement or contract. (*Channer v. Cummins*, 8 Q. B. Rep. 311 ; 15 L. J., Q. B. 161.) But in the subsequent case of *Archer v. James* (2 B. & S. 94 ; 31 L. J., Q. B. 153), the judges in the Exchequer Chamber were equally divided on the question as to the mode of treating the claims in respect of the rent and other matters above-mentioned. The legislature subsequently settled it by passing an act preventing stoppages in the hosiery manufacture, by enacting that no deduction or stoppage of any description shall be made except for bad and disputed workmanship. (See 37 & 38 Vict. c. 48, *post*.) The safer course for courts of summary jurisdiction to adopt will be to treat this last-mentioned act (as interpreted by judicial decision, see *post*, p. 292), not as engrafting an exception on the earlier Truck Act, but as declaratory of the true meaning of the 1 & 2 Will. 4, c. 37.

In cases where a written agreement or contract is necessary to make a deduction legal within sect. 23, it is sufficient if the agreement permits de-

ductions for the subject-matter described, without specifying the amounts to be deducted in respect of them. (*Cutts v. Ward*, L. R., 2 Q. B. 357; 36 L. J., Q. B. 161.) In that case it was further held, that even assuming that a contract to supply medicine or medical attendance must be in writing under the section, there need not be an actual supply if the written contract stipulated for the deduction of a certain sum weekly in consideration of an undertaking to supply if required.

It seems that from the language of the section, "that such stoppage or deduction shall not exceed *the real and true value* of such fuel, materials, tools, implements, hay, corn and provender," that what the legislature contemplated was a sale out and out, not a contract for hiring materials, under which, for example, the master supplied his own materials, and the men engaged to pay him money as a security against breakages. Such a contract would not be within sect. 23, but would come within the scope of the prohibitions in the rest of the act. (Blackburn, J., *Cutts v. Ward*, *supra*; and see per Bramwell, B., *Archer v. James*, *supra*.)

#### 5 & 6 WILL. 4, C. 27.

##### *An Act to continue and amend certain Regulations for the Linen and Hempen Manufactures in Ireland.*

A temporary act, confined to Ireland, but continued (so far as it has not been repealed) from time to time. See the Expiring Laws Continuation Act, 1875 (38 & 39 Vict. c. 72).

The 5 & 6 Will. 4, c. 27, was repealed by 3 & 4 Vict. c. 91, so far as relates to the embezzlement of materials, and to manufacturers and weavers; and sects. 9, 15, 27 to 30, and 38 were expressly repealed by the Statute Law Revision Act, 1874.

It was amended by 5 & 6 Vict. c. 68, and 7 & 8 Vict. c. 47.

#### 7 WILL. 4 & 1 VICT. C. 67.

##### *An Act to amend an Act of the Fifth Year of His Majesty King George the Fourth for consolidating and amending the Laws relative to the arbitration of disputes between Masters and Workmen.*

[See the statute in Lovesy's Law of Arbitrations between Masters and Workmen.]



## 2 &amp; 3 VICT. c. 71.

*An Act for regulating the Police Courts in the Metropolis.*

*Disputes about Wages for Labour done on the River, &c. (except by Trinity Ballastmen) to be settled by Magistrates, provided the Sum in question does not exceed 5l.]—Sect. 37.*

“And be it enacted, that all differences, complaints, and disputes which shall happen between any bargemen, lightermen, watermen, ballastmen (except Trinity ballastmen), coal-whippers, coal porters, sailors, lumpers, riggers, shipwrights, caulkers, or other labourers who work for hire in or upon the River Thames, or the docks, creeks, wharfs, quays, or places adjacent, not being in the city of London or the liberties thereof, and the owners, masters, or commanders of vessels, or their agents, on the said river, or the docks or creeks thereunto adjoining, or the owners, wharfingers, or occupiers of such wharfs or quays, or their agents or other employers, respecting wages or money due to such labourers for work or loss of time, whether the same persons be employed for any certain time or in any other manner, may be heard and determined by any of the said magistrates; and every such magistrate is hereby empowered to examine upon oath any such labourer as aforesaid, or any other witness or witnesses, touching any such complaint or dispute, and to make such order for payment of so much wages or money to such labourer as to the magistrate shall seem just, provided that the sum ordered do not exceed five pounds, besides all reasonable costs attending the prosecution of the complaint.”

Questions may arise as to the effect of the Employers and Workmen Act, 1875, on the above section. Assuming that the “work for hire” is done under a contract within the definition given by sect. 10 of the Act of 1875 as regards both the subject-matter and the parties (and not otherwise excepted from it), then it is a dispute or matter in respect of which jurisdiction is given by the Act of 1875 to a court of summary jurisdiction, and a police magistrate, in dealing with a case within sect. 37 of 2 & 3 Vict. c. 71, is a court of summary jurisdiction. True that the Act of 1875 does not in terms exclude any other existing tribunal and is apparently only permissive, merely enacting that a “dispute,” under the act between an employer and a workman, *may* be heard and determined by a court of summary jurisdiction, and it seems clear that those words would not, under ordinary circumstances, override any court of concurrent jurisdiction; but considerations of another kind may arise in reference to the mode of enforcing compliance with the magistrate’s order. Under the act 2 & 3 Vict. c. 71, coupled with Jervis’s Act, orders for payment of money may be enforced by a general distress, and, in default, by imprisonment; while the Employers and Workmen Act, 1875,



provides that "an order made by a court of summary jurisdiction, under this act, for the payment of any money, shall not be enforced by imprisonment, except in the manner and under the conditions by this act provided, and no goods or chattels shall be taken under a distress ordered by a court of summary jurisdiction which might not be taken under an execution issued by a county court." Can a complainant, or a magistrate, or his clerk, at his option, confer or deprive a debtor of rights affecting personal liberty? It seems to be a startling proposition to say that he can; and yet formerly a plaintiff could exercise a similar power by electing to bring his action and obtain judgment in a superior instead of in a county court.

In the provisions hitherto mentioned in the Appendix, the breaches of labour contracts have been those punishable criminally by summary conviction or otherwise, and no similar question arises.

---

### 3 & 4 VICT. c. 91.

*An Act for the more effectual Prevention of Frauds and Abuses committed by Weavers, Sewers, and other Persons employed in the Linen, Hempen, Union, Cotton, Silk, and Woollen Manufactures in Ireland, and for the better Payment of their Wages, for One Year, and from thence to the end of the then next Session of Parliament.*

Amended and continued by 5 & 6 Vict. c. 68, and continued by subsequent acts. Both 3 & 4 Vict. c. 91, and 5 & 6 Vict. c. 68, were expressly repealed in part by the Statute Law Revision Act, 1874 (No. 2). Sects. 18 and 23 were repealed by 38 & 39 Vict. c. 86, sect. 17 (*ante*, p. 204). The provisions now in force relate chiefly to the fraudulent disposal of materials and tools, and to the distraint of employers' property in possession of a weaver or worker.

---

### 5 & 6 VICT. c. 68.

*An Act to amend and continue to the Twenty-seventh day of July One thousand eight hundred and forty-three, and to the End of the next Session of Parliament, an Act of the Third and Fourth Years of Her present Majesty, for the more effectual Prevention of Frauds and Abuses committed by Weavers, Sewers, and other Persons employed in the Linen, Hempen, Union, Cotton, Silk, and Woollen Manufactures in Ireland, and for the better Payment of their Wages.*

[See the observations on 3 & 4 Vict. c. 91, *supra*.]

## 6 &amp; 7 VICT. C. 40.

*An Act to amend the Laws for the Prevention of Frauds and Abuses by Persons employed in the Woollen, Worsted, Linen, Cotton, Flax, Mohair, and Silk Hosiery Manufactures; and for the further securing the Property of the Manufacturers and the Wages of the Workmen engaged therein.*

Sect. 1 recites 8 & 9 Will. 3, c. 36 (*repealed*); 1 Anne, st. 2, c. 18; 9 Anne, c. 30; 12 Geo. 1, c. 34; 13 Geo. 2, c. 8; 22 Geo. 2, c. 27; 17 Geo. 3, c. 56; 32 Geo. 3, c. 44 (*repealed*); and that “the provisions of the said acts have not been effectual to prevent frauds, embezzlements, and abuses by persons employed in the woollen, linen, cotton, flax, mohair, and silk hosiery manufactures; and it is expedient to repeal so much of the said recited acts as relates to the said manufactures, and to make further provisions in lieu thereof, as well for the benefit and encouragement of trade and manufactures as for the security of the property of manufacturers and the wages of the workmen engaged in the said manufactures,” and enacts that “so much of the said recited acts or any of them as relates to the woollen, linen, cotton, flax, mohair, and silk manufactures, or any of them, or any manufactures whatsoever made of wool, cotton, flax, mohair, or silk materials, whether the same be or be not mixed with each other or with any other materials, shall, so far as respects the manufactures, trades, occupations, and employments hereinafter mentioned, be and the same are hereby repealed.”

*Persons convicted of Pawning or Embezzling any of the Materials herein particularized to forfeit the Value of the same, with Penalty and Costs.*]—Sect. 2. “If any person whosoever intrusted with any woollen, worsted, linen, cotton, flax, mohair, or silk materials, for the purpose of being prepared, worked up, or manufactured, either by himself or by any person or persons to be employed by or under him, or by himself jointly with any person or persons to be employed with, by, or under him, or for any purpose or work connected with manufacture or incidental thereto, or any parts, branches, or processes thereof, or any tools or apparatus for manufacturing the said materials, shall sell, pawn, purloin, embezzle, secrete, exchange, or otherwise fraudulently dispose of the same materials, tools, or apparatus, or any part thereof, he shall, upon being thereof lawfully convicted by the oath of the owner of such materials, tools, or apparatus, or any part thereof, or of any other credible witness or witnesses, before two or more justices of the peace, forfeit the full value of the same, and also forfeit such penalty, not exceeding ten pounds, together with costs, as to the said justices shall seem meet; and every such



forfeiture and penalty shall be applied, under the direction of the convicting justices, in manner following; (that is to say,) in the first place, in making such satisfaction to the party injured as the said justices shall think proper; and the remainder, if any, shall be applied in the same manner as is hereinafter directed for the disposal of any other penalty under this act; and in default of payment of such forfeiture and penalty, with costs, immediately on conviction, or within such period as the justices so convicting may direct, the said justices may issue their warrant to distrain and sell the goods and chattels of the person so convicted for the amount thereof and costs; and the proceeds of any distress, after paying the penalty, forfeiture, and costs and also the costs of such distress, shall be paid over to the person convicted; but if no sufficient distress shall appear or shall be found whereon to levy the said penalty, forfeiture, and costs, the said justices may, either immediately or at any time after such conviction, commit any person so convicted to the common gaol or house of correction, to be there imprisoned, with or without hard labour, as to the said justices shall seem meet, for any term not exceeding three calendar months, unless the amount of such forfeiture and penalty, with costs, or so much thereof as shall not have been paid previously to the commencement of such imprisonment, be sooner paid."

*Persons neglecting to return Materials within a prescribed Time to be subject to the same Punishment as for Embezzlement.*—Sect. 3. "And be it enacted, that if any person whosoever intrusted with any woollen, worsted, linen, cotton, flax, mohair, or silk materials, for the purpose of being prepared, worked up, or manufactured, either by himself or by any person or persons to be employed by or under him, or by himself jointly with any person or persons to be employed with, by, or under him, or for any purpose or work connected with manufacture or incidental thereto, or any parts, branches, or processes thereof, or with any tools or apparatus for manufacturing the said materials, shall neglect or delay to return the said materials, tools, or apparatus, or any part thereof, for the space of fourteen clear days after being required so to do by the party intrusting him therewith, or by some person on his behalf, by notice in writing to be served upon or left at the last or usual place of abode or business of such person (unless prevented by some reasonable and sufficient cause, to be allowed by the justices before whom he shall be brought), then and in every such case all, or so much or so many of the said materials, tools, or apparatus as shall not be returned to the person so intrusting him therewith within the time aforesaid, shall be deemed to be embezzled by the person so neglecting or delaying to return the same; and the person so neglecting or delaying to return the same shall for every such offence be liable to be proceeded against for embezzlement, in the same manner, and subject to



the same forfeiture and penalty, with costs, and to be applied in the same manner, as are respectively hereinbefore prescribed and imposed in respect to persons selling, pawning, purloining, embezzling, secreting, exchanging, or otherwise fraudulently disposing of the said materials."

*Persons knowingly purchasing or receiving embezzled Materials or Tools guilty of a Misdemeanor, punishable as after mentioned.*—Sect. 4. "Any person who shall purchase or take in pawn, or who in any other way shall receive into his premises or possession, any woollen, worsted, linen, cotton, flax, mohair, or silk materials, and whether the same or any part of the said materials be or be not wholly or partially wrought, made up, or manufactured into merchantable wares, or any tools or apparatus for manufacturing the same, knowing that such materials, tools, or apparatus are purloined or embezzled or fraudulently disposed of, or that the person from whom he shall purchase, take in pawn, or receive the same is fraudulently or unlawfully disposing thereof, or knowing such person to be employed or intrusted by any other person or persons to work up either by himself or by or with others the materials so purchased, taken in pawn, or received for any other person or persons, and not having first obtained the consent of the person or persons so employing or intrusting him therewith, shall, on conviction by the oath of the owner or of any other credible witness or witnesses, be deemed and adjudged guilty of a misdemeanor, and be punished in manner hereinafter mentioned."

*Persons knowingly selling, &c. embezzled Materials or Tools guilty of a Misdemeanor, punishable as after mentioned.*—Sect. 5. "If any person shall sell, pawn, pledge, exchange, or otherwise unlawfully dispose of or offer to sell, pawn, pledge, exchange, or otherwise dispose of any such materials, tools, or apparatus as aforesaid, knowing the same to have been so purloined or embezzled or received from persons fraudulently disposing thereof as aforesaid, he shall, on conviction by the oath of the owner of such materials, tools, or apparatus, or any part thereof, or of any other credible witness or witnesses, be deemed and adjudged guilty of a misdemeanor, and be punished in manner hereinafter mentioned."

Sect. 6. Justices empowered to issue warrant for apprehension of offenders against this act, and to commit them for trial.

Sect. 8. Justice empowered to grant search warrants.

*Peace Officers to apprehend suspected Persons.*—Sect. 9. "Every peace officer and constable and every watchman duly appointed by law, during such time as he shall be on duty, shall and may apprehend or cause to be apprehended any person whom he may reasonably suspect of having, or carrying or in any way conveying, at any time after sun-setting and before

sun-rising, any such materials, tools, or apparatus as aforesaid, suspected to be purloined, embezzled, or otherwise fraudulently disposed of, and shall lodge such person, together with the property, in a police office or other place of security, in order that he may be brought before a justice of the peace so soon as convenient, who is hereby empowered to discharge such person, or to order his detention until the next court of petty sessions, unless he enter into such bail, with two sufficient sureties, as may be required, for his appearance before such court on any day to be fixed by the said justice; and if the person so apprehended in the act of committing any such offence as aforesaid, or of conveying any such property as last aforesaid, shall not produce before the said court the person duly entitled to dispose of such property from whom he bought or received the same, or shall not give an account to the satisfaction of the said court that the property is honestly come by, then the person so apprehended shall be deemed and adjudged guilty of a misdemeanor, and be punished in manner hereinafter mentioned, although no proof shall be given as to whom such property belongs."

*Adjournment of Time for Trial allowed, on Prisoner finding Bail.*]—Sect. 10. "It shall be competent for the party accused, in all proceedings brought under authority of this act, to move for and obtain an adjournment of the time fixed for trial for such a reasonable time as may appear to the court to be necessary for the party accused to produce the person duly entitled to sell or dispose of the said property of whom he bought or received the same, or evidence respecting the same; but the party accused, and requesting such adjournment, shall be detained in custody or committed to prison, unless he enter into such bail, with two sufficient sureties, as shall be required for his appearance before such court at such time and place as shall be appointed."

*Punishment of Persons convicted of Misdemeanor.*]—Sect. 11. "Any person who shall be deemed and adjudged guilty of a misdemeanor, agreeably to any of the provisions of this act, shall, in addition to being deprived without compensation of any such materials, tools, and apparatus which have been purloined, embezzled, or otherwise fraudulently disposed of, and which shall have been found in his possession, forfeit any sum not exceeding twenty pounds for each offence, together with costs, upon being thereof lawfully convicted by the oath of one or more credible witness or witnesses, before two or more justices of the peace; and every such forfeiture shall be applied under the direction of the justices so convicting, in manner following; (that is to say,) in the first place, in making such satisfaction to the party injured as the said justices shall think fit, and the remainder, if any, shall be applied in the same manner as is hereinafter directed for the disposal of any



other penalty under this act; and in default of payment of such forfeiture and penalty, with costs, immediately on conviction, or within such period as the court shall direct, any justice or justices may issue his or their warrant to distrain and sell the goods and chattels of the person so convicted, for the amount thereof, and costs; and the proceeds of any distress, after paying the forfeiture and costs, and also the costs of such distress, shall be paid over to the person convicted; but if no sufficient distress shall appear or shall be found whereon to levy the said forfeiture and costs, any justice or justices may, either immediately or at any time after such conviction, commit any person so convicted to the common gaol or house of correction, to be imprisoned there, with or without hard labour, as to the said court shall seem meet, for any term not exceeding four calendar months, unless the amount of such forfeiture and costs, or so much thereof as shall not have been paid previously to the commencement of such imprisonment, be sooner paid."

*Disposal of unclaimed Property which has been seized.*]—Sect. 12. "Where no proof shall be given at the time of conviction of the ownership of property found in the possession of a person convicted under this act, the justices or court shall cause the property so found to be deposited in some safe place for any time not exceeding thirty days, and shall, if the property be of sufficient value to pay the expenses thereof, order an advertisement to be inserted in one or more of the public newspapers of the town or city where, or nearest the place where, the same was found, and by fixing a notice on some public place describing such property, and where the same may be inspected, or in case of the said property not being of sufficient value to pay the said expenses, then by fixing such notice as aforesaid only; and in case any person shall prove his own or his employer's ownership or property therein upon oath to the satisfaction of a justice, restitution of such property shall be ordered to the owner thereof, after paying the reasonable cost of removing, depositing, advertising, and giving notice of the same; but if no ownership be proved to such property the justice shall, at the termination of thirty days, order such property to be sold, and after deducting the charges aforesaid, with the charges of sale, shall order the residue to be applied in the same manner as is hereafter directed for the disposal of any other penalty under this act."

*Owner of Materials may inspect Shops, &c. of Persons employed.*]--Sect. 13. "It shall be lawful for the owner of any such materials as aforesaid, or any other person duly authorized by him, or other the person who shall have so intrusted such materials, from time to time, as occasion shall require, to demand leave of entrance and enter at all reasonable hours in the daytime into the shops or outhouses of any person employed



to work up or manufacture, either by himself or by any other person under him, any of the said materials, or other place or places where the work shall be carried on, and there to inspect the state and condition of such materials; and in case of refusal or neglect by any such person or persons so employed to permit such entrance or inspection, such person shall, for so refusing to permit such entrance or inspection, forfeit any sum not exceeding twenty shillings, as the justices before whom he shall appear or be brought shall think proper, to be applied in the same manner as is hereinafter directed for the disposal of any other penalty under this act: provided always, that nothing herein contained shall authorize any such owner or other person as aforesaid to inspect any frame, tools, or apparatus where-with such materials are worked up, in case such frame, tools, or apparatus comprise any new invention or improvement not disclosed to the public."

*Warrant may be granted by Justice on Complaint on Oath that Person is about to abscond.*—Sect. 14. "If any manufacturer, agent, or any other person in his employment or service, shall make oath before a justice of the peace that any such materials, tools, or apparatus as aforesaid have been intrusted to any person as aforesaid, and that he has absconded, or that the deponent has just cause to suspect and does suspect that such person is about to abscond, it shall be lawful for such justice and he is hereby required to issue his warrant to apprehend such person, and bring him before him or some other justice of the peace; and if such person shall have absconded, or shall not forthwith give security, to be approved of by the said justice, for the return in a finished state of all such materials so intrusted to him, within such time as shall be then agreed on, such justice shall by warrant order any constable, with his assistants, to enter the house or other premises of such person, and take possession of all such materials, tools, or apparatus so delivered to him as aforesaid, and to bring the same before the said justice or any other justice, when such justice shall direct the same to be delivered to the owner, or his agent or servant, or other person duly authorized by him, and shall forthwith release the person in custody; but if all such materials, tools, or apparatus shall not be found in the house or other premises or the possession of such person, or shall not be produced before such justice, such person shall be deemed and taken to have purloined or embezzled such materials, tools, or apparatus, or such part thereof as shall not be found or produced, and shall be liable to any of the punishments awarded for such offence."

*Receiving Goods in fictitious Name.*—Sect. 15. "If any person shall receive any of the aforesaid materials in a fictitious name, in order to be manufactured, every such person so of-

fending, and being convicted thereof on the oath of one or more credible witness or witnesses before two or more justices, shall for every such offence be liable to the same punishment as is hereinbefore directed in respect to persons not fulfilling their engagements."

Sect. 16. Justice to issue warrant to constable to take possession of property intrusted to any person committed for embezzlement, &c.

*Frames, &c. not belonging to Workmen not liable to be seized for Rent or Debt owing by Workmen.*—Sect. 18. "No frame, loom, or machine, materials, tools, or apparatus, which shall be intrusted for the purpose of being used or worked in any of the said manufactures, or any work connected therewith or incidental thereto, or any parts, branches, or processes thereof, whether such frame, loom, or machine, materials, tools, or apparatus, shall or shall not be rented or taken by the hire, shall at any time or times hereafter be distrained or seized, or be liable to be distrained or seized, for rent or for debt, or under any execution or other proceedings whatever, unless the rent be due or the money be owing by the owner of the said frame, loom, or machine, or of the said materials or tools or apparatus aforesaid, or of any part thereof respectively."

*In case of Refusal to restore Frames, &c. unlawfully seized, Justice may order their Restoration.*—Sect. 19. "If any landlord or other person, by virtue of any distress warrant, execution, or other proceedings for rent in arrear, or money due or alleged to be due by any person whomsoever, shall distrain, seize, carry off, sell, or otherwise dispose of any frame, loom, or machine, materials, tools, or apparatus, belonging to any other person, which shall have been intrusted for the purpose of being used or worked in any of the said manufactures, or any work connected therewith or incidental thereto, or any parts, branches, or processes thereof, and whether the same shall or shall not be rented or taken by the hire, or shall distrain, seize, carry off, sell, or otherwise dispose of any materials as aforesaid, or any tools or apparatus as aforesaid, belonging to any other person, and shall refuse to restore possession of all such frames, looms, machines, tools, or apparatus to the person owning, letting, or intrusting the same, when demanded by him, or some person duly authorized by him, of the said landlord or other person, or the person acting as agent or bailiff of such landlord or other person, it shall and may be lawful to and for any justice of the peace, upon complaint on oath before him, to summon the said landlord or other person to appear before any two or more justices of the peace to answer the said complaint, and on proof of the said offence the said justices may thereupon order the property so seized, distrained, carried off, or sold to be forthwith restored, and



issue their warrant to a constable or constables empowering him or them to seize the said property wherever the same shall be found, and deliver possession thereof to the person owning, letting, or intrusting the same, and to levy, by distress and sale of the goods of the said landlord or other person, the costs of obtaining the said order, and recovering and obtaining possession of the said property; and in case the said property cannot be found and seized within a time not exceeding twenty-one days, to be limited in the said warrant, or in case the said property shall have been damaged by the same having been distrained, seized, carried off, or sold, then it shall be lawful for such two justices, or any other two justices, on proof thereof (the said landlord or other person having been first summoned by a justice), to issue their warrant to levy by distress and sale of the goods and chattels of such landlord or other person the full value of the said property, or the amount of such damage, as the case may be, together with all costs of recovering and levying the same."

*Penalty for obliterating Mark on Machine.*—Sect. 20. "If any person or persons shall obliterate, efface, or alter the owner's name or initials, or other distinguishing mark, on any frame, loom, or machine, or any bar or part thereof, or the moulds thereof, without the order or authority of the owner thereof, he shall, on conviction thereof before two justices of the peace, forfeit any such sum not exceeding two pounds as such two justices shall order and direct, to be applied, in the first place, in paying the costs of the proceedings before such justices, and the surplus, if any, to the party injured; and in default of payment of such forfeiture immediately on conviction, or within such period as the justices so convicting shall direct, then the said justices may, either immediately or at any time after such conviction, commit any person so convicted to the common gaol or house of correction, there to be imprisoned, with or without hard labour, as to the said justices shall seem meet, for any term not exceeding two calendar months, unless the amount of such forfeiture be sooner paid."

*Power to award Costs to Defendant.*—Sect. 21. "And for the discouragement of frivolous and vexatious informations and prosecutions under this act, be it enacted, that it shall be lawful for any justices or court of petty sessions before whom any case under this act is tried to award costs to the defendant, with an allowance for his loss of time, in case of acquittal, to be paid by the prosecutor; and also, if it shall appear to such justices or court that the charge was made from a malicious, vexatious, or frivolous motive, or in case the party shall be charged with embezzlement of materials, by reason of any deficiency in the weight of the



materials which he shall have returned to the person by whom they were intrusted to such party, as compared with the weight of the materials received, and it shall be proved upon the hearing of the case that such materials were knowingly and fraudulently delivered to the party charged whilst in a damp state, so that the apparent weight thereof was thereby increased, it shall be lawful for such justices or court to award to the defendant such further sum of money not exceeding twenty pounds as to such justices or court shall seem fit, to be paid by such prosecutor as a compensation for the injury done; and in default of payment such costs and allowances and compensations may be levied by distress and sale of the prosecutor's goods."

*Mode of proceeding to enforce Appearance.*—Sect. 22. "Where any person shall be charged on oath with any offence punishable under this act one justice may receive the original information and summon the person charged to appear before any two justices of the peace at a time and place to be named in such summons, and if he shall not appear accordingly then the justices there present may either proceed to hear and determine the case *ex parte*, or any of such justices may issue a warrant for apprehending such person, and bringing him to answer the said charge before any two or more justices, or the justice before whom the charge shall be made may, if he shall so think fit, issue such warrant in the first instance, without any previous summons, and commit the person so charged to prison, in order that he may be brought forward for trial (unless he enter into such bail as may be required by such justice for his appearance at such time and place as shall be appointed); and the justices before whom the person charged shall appear or be brought shall proceed to hear and determine the case; and after adjudication all and every the subsequent proceedings to enforce obedience thereto, whether respecting the penalty, forfeiture, distress, imprisonment, costs, or other matter or thing relating thereto, may be enforced by any one of the said justices."

*Service of Summons.*—Sect. 23. "Every summons to be granted by a justice of the peace under this act may be served by delivering a copy thereof to the party, or by delivering such copy at the party's usual place of abode to some inmate thereat, and explaining the purport thereof to such inmate."

*Limitation of Time within which Proceedings to be commenced—Prosecutor, &c. a competent Witness.*—Sect. 24. "Every complaint and prosecution under this act shall be commenced within six calendar months after the commission of the offence, unless the offending party shall have in the meantime left the country, and not otherwise; and that . . . any person aiding, abetting, party or privy to the commission of

the offence charged, shall in every case under this act be deemed a competent witness to prove the offence."

*What Justices to have Jurisdiction.*—Sect. 25. "In all complaints, warrants, proceedings or prosecutions under this act, any justice or justices of the peace, and the court of petty sessions for the county, city, borough, or place where the offence shall be committed or the complaint arise, or where the said materials, frame, loom, machine, tools, or apparatus shall be given out or intrusted, lent or hired, or where the manufacturer, master, or employer shall carry on his trade or business, shall have full power and authority to act, and to hear and determine such complaint, warrant, proceeding, or prosecution, and do all other matters incident thereto: provided always, that in all convictions or adjudications under this act one at least of the convicting or adjudicating justices shall be a person not engaged in any manufacture, trade, occupation, or employment to which this act extends, and shall not be the father, son, or brother of any such person."

Sect. 26. Application of penalties.

Sect. 27. Scale of imprisonment on summary convictions not specially provided for.

Sect. 28. Form of conviction.

Sect. 29. Appeal to quarter sessions in certain cases.

Sect. 30. Proceedings not to be quashed for want of form, or be removed by certiorari.

Sect. 31. Limitation of actions against persons acting in execution of this act.

Sect. 33. This act not to extend to Scotland or Ireland.

*To what Trades this Act shall extend.*—Sect. 34. "This act shall not extend or be construed to extend to any manufacture, trade, occupation, or employment, except only the manufactures, trades, occupations, and employments following; (that is to say,) the manufacture of woollen, worsted, linen, cotton, flax, mohair, or silk materials in, on, or by the stocking-frame, warp machine, or any other machine employed in the manufacture of frame-work, knitted or looped fabrics, and every trade, occupation, operation, or employment whatsoever connected with or incidental to the manufacture of stockings, gloves, and other articles of hosiery."

*Construction of Terms.*—Sect. 35. "In all cases under this act the singular is to include the plural, and the masculine the feminine; and in an indictment or information for offences against the property of partners, joint stock companies, or trustees, it shall be sufficient to lay the ownership in the name of one partner or trustee and another or others; that the words, "woollen, worsted, linen, cotton, flax, mohair, or silk materials," shall be construed to extend to any of the said materials mixed with each other or with any other material or materials; and



that the words "manufacture" and "work" shall extend to all trades, occupations, operations, and employments whatsoever connected with or incidental to the manufacture of any of the said materials, or any parts, branches, or processes thereof, and likewise to such materials, whether the same or any part thereof be or be not in the whole or in part first wrought, made up, or manufactured or converted into merchantable wares."

Sects. 7 and 17 of this act were repealed by the Conspiracy and Protection of Property Act, 1875; and sects. 32, 36 and 37, and the words "the informer or prosecutor, or," in sect. 24, were expressly repealed by the Statute Law Revision Act, 1874 (No. 2).

---

### 7 & 8 VICT. c. 15.

#### *An Act to amend the Laws relating to Labour in Factories.*

Although the Factory Acts, 1833 to 1871 (*b*), and subsequent acts, closely affect the relation of employer and employed, and the provisions of these acts may often have to be referred to or borne in mind in regard to "disputes" under the Employers and Workmen Act, 1875, it would be impossible to include them in the limits of this work. Nevertheless, the provisions of the 7 & 8 Vict. c. 15 (the Factory Act, 1844), relating to fencing machinery, may be usefully mentioned, for, as has been remarked, "no portion of the law has given rise to so much discussion in the courts as that which relates to the fencing of dangerous machinery, and the liability of the occupier of the factory to workpeople injured by accidents therefrom. This, indeed, is scarcely to be wondered at, seeing that the accidents *officially reported* to the inspector of factories as occurring in one half-year reach the number of 3,823." (*Notcutt's* preface to the Factory and Workshop Acts, 1874).

If "dispute" is to be read in the wide sense suggested in a previous part of the work (see *ante*, pp. 121, 122), it seems that a claim by a workman against an employer for damages by reason of non-fencing machinery is a matter within the cognizance of a court of summary jurisdiction under the Employers and Workmen Act, 1875, as "arising out of, or incidental to,

(*b*) All the Factory Acts from the Factory Act, 1833, to the Factory Act, 1874, may be cited as the Factory Acts, 1833 to 1874 (see 37 & 38 Vict. c. 44, s. 1), and most

of the acts, so far as they relate to factories, are to be construed together as one act. (See 34 & 35 Vict. c. 104, s. 2.)



their relation as such"; and, although claims are limited in amount to 10*l.*, it is probable that the ready mode of taking proceedings at a very trifling cost, will make these "courts of summary jurisdiction" a medium for enforcing claims of this description.

In applying the law to those courts it must be borne in mind that only the contracting parties can sue or be sued.

The 7 & 8 Vict. c. 15, enacts that (sect. 21) "every fly-wheel directly connected with the steam-engine, or water-wheel, or other mechanical power, whether in the engine-house or not, and every part of a steam-engine and water-wheel, and every hoist or teagle, near to which children or young persons are liable to pass or be employed, and all parts of the mill gearing in a factory, shall be securely fenced, and every wheel-race not otherwise secured, shall be fenced close to the edge of the wheel-race; and the said protection to each part shall not be removed while the parts required to be fenced are in motion by the action of the steam-engine, water-wheel, or other mechanical power for any manufacturing process."

The Factory Act, 1856 (19 & 20 Vict. c. 38) enacts (sect. 4), "the said sect. 21, so far as the same refers to mill gearing, shall apply only to those parts thereof with which children and young persons and women are liable to come in contact, either in passing or in their ordinary occupation in the factory" (c).

The true construction of the two acts taken together is, that every fly-wheel directly connected with the steam-engine or water-wheel, or other mechanical power, whether in the engine-house or not, and every part of a steam-engine and water-wheel, must be securely fenced in all cases, whether children or young persons are employed or not. (*Bramwell, B., Britton v. Great Western Cotton Co.*, L. R., 7 Ex. 130; 41 L. J., Ex. 99.)

The application of sect. 21 is not restrained to that part of the machinery which first conveys the power; but it extends to any wheel from first to last which is in any sense the *medium* of communication, although that part which actually does the work need not be fenced. (*Holmes v. Clarke*, 6 H. & N. 349; 30 L. J., Ex. 135; in error, 7 H. & N. 937; 31 L. J., Ex. 356.)

Nevertheless, the mill gearing in each separate room of a factory is separate and distinct from the mill gearing in any other room; and, consequently, the mill gearing in any particular room requires fencing only when some manufacturing process is going on in that room. (*Coe v. Platt*, 7 Exch. Rep. 923; 22 L. J., Ex. 164.)

(c) It seems that this statutory limitation was the result of the decision in *Doel v. Sheppard*, 5 E. & B. 856; 25 L. J., Q. B. 124; that

the liability to fence mill gearing under sect. 21 of 7 & 8 Vict. c. 15, existed, although so situated as to involve no danger.

Besides the above sections there are various provisions for the protection of children and young persons from accidents, and for giving notice of accidents to surgeons appointed under the Factory Acts, and for notices, by inspectors to factory occupiers, of dangerous machinery. The Secretary of State, on the report and recommendation of an inspector, may empower the inspector to direct one or more actions to be brought in the name and on behalf of any person injured by the machinery for the recovery of damages.

Moreover, the Factory Acts Extension Act, 1867 (30 & 31 Vict. c. 103), provides, schedule 9, par. 24, that "where it appears to one of her Majesty's principal secretaries of state that the regulations of the Factory Acts relating to the fencing of machinery require to be modified in any particular trade, and that such modifications can be made with due regard to the safety of the children, young persons, and women employed, he may, by order with respect to any particular factory, or any class of factories, modify the said regulations so far as such trade is concerned, upon such terms and in such manner as he thinks fit. Such order shall be advertised in the London Gazette, or otherwise published in such manner as the Secretary of State may think fit. Any regulations so modified by the said Secretary of State shall be of the same validity as if they had been the original regulations contained in the Factory Acts."

The liabilities incurred by a neglect to observe the provisions of the Factory Acts respecting the fencing of dangerous machinery are thus conveniently stated:—

1. For not fencing the several parts of the machinery required by sect. 21 to be fenced, the offender is liable to a penalty of not less than 5*l.*, and not more than 20*l.* (7 & 8 Vict. c. 15, s. 59). For not fencing the machinery driving-strap or band as to which the inspector or sub-inspector shall have given notice under sect. 43, requiring it to be securely fenced, the offender is liable to a penalty of not less than 5*l.*, and not more than 20*l.* (19 & 20 Vict. c. 38, s. 6).

2. But if any person suffers bodily injury by reason of such neglect to fence, or by reason of the occupier's neglect to fence any part of the machinery, or any driving-strap or band, of which he shall have received notice from an inspector or sub-inspector, as provided in sect. 43, that the same was deemed to be dangerous, the occupier incurs a penalty of not less than 10*l.*, nor more than 100*l.* (7 & 8 Vict. c. 15, s. 60).

3. If any person receives any bodily injury from the machinery of any factory, an action may be brought on his behalf, by direction of the inspector, for the recovery of damages under sect. 24 of 7 & 8 Vict. c. 15.

4. In the event of personal injury to any person employed at



the factory, arising from a neglect to fence any machinery, &c., required by the acts to be fenced, there is authority for saying that the owner or occupier is liable to an action for the recovery of damages at the suit of such person (or, if he is killed, at the suit of his personal representatives, under Lord Campbell's Act, 9 & 10 Vict. c. 93); this action being founded upon the breach of a statutory duty (see *Britton v. Great Western Cotton Co.*, L. R., 7 Ex. 130; 41 L. J., Ex. 99; *Grey v. Pullen*, 5 B. & S. 970). But it has been doubted whether, if a person sustains an injury in consequence of work being imperfectly or improperly performed, any civil liability is imposed upon an owner by reason of a statutable obligation, if without the statute he would not have been liable. (*Wilson v. Merry*, Law Rep., 1 Scotch Appeal Cases, 326.) With regard to the factory owner or occupier's liability for the breach of his statutory duty, it is to be observed that the fact that the statute imposes penalties does not deprive the injured party of any right of action he may have, the remedy by penalties being cumulative. (*Caswell v. Worth*, 5 E. & B. 849; 25 L. J., Q. B. 121; *Couch v. Steel*, 3 E. & B. 402; 23 L. J., Q. B. 121.)

Nor does the above-mentioned provision of sect. 24 destroy his right to sue (*Caswell v. Worth*, *supra*); and the duty to fence being thus imposed by statute, the master has been held liable for the injury sustained by the servant in consequence of that duty being neglected, notwithstanding the general doctrine that a servant cannot recover for injuries resulting from the carelessness of a workman, if that servant be competent for the discharge of his duties (*d*). (*Holmes v. Clarke*, 6 H. & N. 349;

(*d*) The rule of law referred to in the text, as to the position of a servant in reference to acts of negligence by others in his master's employ, is of such great importance, and one that may be involved in cases brought before courts of summary jurisdiction, that I hope a reference to two leading cases decided by the House of Lords on the subject will not be thought out of place. The principle was thus stated by Lord Cranworth:—

“When the workman contracts to do work of any particular sort, he knows, or ought to know, to what risks he is exposing himself; he knows, if such be the nature of the risk, that want of care on the part of a fellow-workman may be injurious or fatal to him, and that against such want of care his employer cannot by possibility protect him. If such want of care should

occur, and evil is the result, he cannot say that he does not know whether the master or the servant was to blame. He knows that the blame was wholly that of the servant. He cannot say the master need not have engaged in the work at all, for he was party to its being undertaken. Principle, therefore, seems to me opposed to the doctrine that the responsibility of a master for the ill consequences of his servant's carelessness is applicable to the demand made by a fellow-workman in respect of evil resulting from the carelessness of a fellow-workman when engaged in a common work.” Lord Cranworth, *Bartonshall Coal Company v. Reid*, 3 Macq. 282.

In citing this passage with approval, Lord Cairns said in a later case:—

“I would only add to this state-



30 L. J., Ex. 135; in error, 7 H. & N. 937; 31 L. J., Ex. 356.) Nevertheless, the negligence of the workman himself who complains, is a good defence to an action founded on the statutory duty. (*Holmes v. Clarke, supra.*)

Lastly, apart from the obligations imposed by the Factory Acts, the owner or occupier of a factory, by neglecting to provide sufficient fencings, or to take reasonable precautions to prevent accidents from dangerous machinery, may render himself liable to an action at the suit of any injured person, founded upon his *common law* duty in that respect, and independently of any statutory provisions. (*Holmes v. Clarke, supra.*) For where a servant is employed on machinery, from the use of which danger may arise, it is the duty of the master to take due care, and to use all reasonable means to guard against and prevent any defects from which increased and unnecessary danger may arise. (*Id.*; *Bartonshall Coal Co. v. Reid*, 3 Macq. H. L. C. 266; *Roberts v. Smith*, 2 H. & N. 213; 26 L. J., Ex. 319; *Ashworth v. Stanwix*, 3 E. & E. 701; 30

ment of the law, that I do not think the liability or non-liability of the master to his workmen can depend upon the question whether the author of the accident is not, or is, in any technical sense, the fellow-workman or collaborateur of the sufferer. In the majority of cases in which accidents have occurred the negligence has no doubt been the negligence of a fellow-workman; but the case of the fellow-workman appears to me to be an example of the rule, and not the rule itself. The rule, as I think, must stand upon higher and broader grounds. As is said by a distinguished jurist: '*Exempla non restringunt regulam, sed loquuntur de casibus crebrioribus.*' (Donellus de Jure Civ. l. 9, c. 2, n.) The master is not, and cannot be liable to his servant, unless there be negligence on the part of the master in that which he, the master, has contracted or undertaken with his servant to do. The master has not contracted or undertaken to execute in person the work connected with his business. The result of an obligation on the master personally to execute the work connected with his business, in place of being beneficial, might be disastrous to his servants, for the master might be incompetent personally to perform the work. At

all events, a servant may choose for himself between serving a master who does and a master who does not attend in person to his business. But what the master is, in my opinion, bound to his servant to do, in the event of his not personally superintending and directing the work, is to select proper and competent persons to do so, and to furnish them with adequate materials and resources for the work. When he has done this he has, in my opinion, done all that he is bound to do. And if the persons so selected are guilty of negligence, this is not the negligence of the master; and if an accident occurs to a workman to-day in consequence of the negligence of another workman, skilful and competent, who was formerly but is no longer in the employment of the master, the master is, in my opinion, not liable, although the two workmen cannot technically be described as fellow-workmen. As was said in the case of *Tarrant v. Webb*, 25 L. J., C. P. 263, negligence cannot exist if the master does his best to employ competent persons; he cannot warrant the competency of his servants." Lord Chancellor Cairns, *Wilson v. Merry*, Law Rep., 1 Scotch Appeal Cases, 326.

L. J., Q. B. 333; *Mellors v. Shaw*, 1 B. & S. 437; 30 L. J., Q. B. 333; *Watling v. Oastler*, 40 L. J., Ex. 43); and this liability applies not merely to the neglect to fence, but to the owner's negligent use of machinery by the employment of incompetent persons. (See per Cockburn, C. J., *Grizzle v. Frost*, 3 F. & F. 622.)

But in this action, founded upon the common law liability, as in any action maintainable upon the statutory liability, the contributory negligence of the workman who sues affords a good defence (*e*).

---

### 8 & 9 VICT. c. 77.

*An Act to make further Regulations respecting the Tickets of Work to be delivered to Persons employed in the Manufacture of Hosiery in certain cases.*

### 8 & 9 VICT. c. 128.

*An Act to make further Regulations respecting the Tickets of Work to be delivered to Silk Weavers in certain cases.*

[See these statutes in Lovesy's Law of Arbitrations between Masters and Workmen.]

Section 7 of the 8 & 9 Vict. c. 128, is repealed by the Conspiracy and Protection of Property Act, 1875, s. 17 (see *ante*, p. 205.)

---

### 14 & 15 VICT. c. 92.

*An Act to consolidate and amend the Acts relating to certain Offences and other Matters as to which Justices of the Peace exercise Summary Jurisdiction in Ireland (f).*

Sect. 16. "The decision of certain disputes between em-

(*e*) The above summary of liabilities (except note (*d*), p. 263), is taken nearly verbatim from *Notcutt's Factory and Workshop Acts*, p. 69 *et seq.* I have not the pleasure of knowing Mr. Notcutt, but I hope, if this meets his eye, he will pardon the liberty I take in remarking that his work is one of the very best handbooks of collected statutes on a particular subject that I have ever met with.

(*f*) See Conspiracy and Protection of Property Act, 1875, s. 17, *ante*, p. 203, repealing sub-sect. 4 of sect. 16 of this act, and regulating the enforcement of orders for wages, &c. It may be observed that the 14 & 15 Vict. c. 92, has been partially repealed, viz, sect. 18 (with a proviso), by 23 & 24 Vict. c. 119, s. 4; and sects. 2, 3, 4 and 5 by 24 & 25 Vict. c. 95.



ployers and the persons employed by them shall be subject to the following provisions :

1. It shall be lawful for the justices to hear and determine any disputes concerning any sums which shall be due for wages by any master to his apprentice, or by any employer to any artificer, labourer, servant, or other person employed by him to do any species of work or labour whatsoever (whether he shall find materials for the performance of the same or not, and whether such wages shall be due in respect to any day's work or to any labour done or performed by task, job, or contract); or which shall be due by any person for the hire of any horse, ass, mule, bullock, or other animal for draught, or of any cart, dray, car, plough, harrow, or vehicle drawn by any such animal for the purpose of any labouring work (and not being for the carriage of any passenger or passengers), or for the hire of any boat for the purpose of any labouring work (and not being for the carriage of any passenger or passengers), and whether such hire shall be by the day or by contract or otherwise; or which shall be due to any schoolmaster or teacher for the teaching of any child in any school or other place, and whether the engagement shall be for a payment by the day or for any other period, or in any other manner (provided that the amount of the demand for such wages, hire, or tuition, in any of such cases, whether originally greater or not, shall not exceed ten pounds); and to make such order as they shall see fit for payment of such sums as shall appear to be justly due to the complainant by his master or employer, or, in case of any sum claimed for the teaching of any child, by the parent or other person who shall have engaged the complainant to teach such child :
2. Whenever it shall appear to the satisfaction of the justices that any schoolmaster, teacher, servant, artificer, labourer, or other person so employed as aforesaid has been or is likely to be detained from his home or usual place of residence, or has suffered or is likely to suffer any additional loss by reason of the nonpayment of any sum which such justices shall so adjudge to be due to him, it shall be lawful for such justices to order that there shall be paid to him by such master or employer, not only the sum so due to him, but also such further sum as compensation, not exceeding the sum of forty shillings for the time during which he shall have been so detained from his usual place of residence, or for the loss suffered or likely to be suffered, as such justices shall think to be reasonable, having regard to the length



of such detention, the diligence or remissness of either party, the usual earnings of such schoolmaster, teacher, servant, artificer, labourer, or person, and the sum which within the time of such detention he did earn, or under all the circumstances of the case might have earned :

3. In every case where any such master or employer shall intrust his business to the management and superintendence of any steward, agent, bailiff, foreman, or manager, it shall be lawful for the justices to summon such steward, agent, bailiff, foreman or manager to appear at petty sessions, and to hear and determine the matter of the complaint in such and the like manner as complaints of the like nature against any master or employer, and to make an order for the payment by such steward, agent, bailiff, foreman, or manager, to the complainant, of such sum or compensation as shall be justly due to him; and in case of refusal or nonpayment of any such sum or compensation at such time as shall be directed by such justices it shall be lawful for them to issue a warrant to levy the same by distress and sale of the goods of such master or employer :
5. Any servant or other person who shall hire or engage with any master or other person under any false or forged discharge or certificate of character, shall be liable to forfeit all the wages which shall be due to him by such master or person at the time of his conviction, and shall also be liable to a fine not exceeding five pounds, and in default of payment to be imprisoned for a term not exceeding three months."

---

24 & 25 VICT. C. 94.

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Accessories to and Abettors of Indictable Offences (g).*

*Abettors in Misdemeanors.*]—Sect. 8. "Whosoever shall aid, abet, counsel, or procure the commission of any misdemeanor, whether the same be a misdemeanor at common law or by virtue

(g) Certain provisions of the Criminal Law Consolidation Acts, 24 & 25 Vict. cc. 94 — 100, are given here, and although some of these have no special reference on their face to employers or workmen,

they will have to be borne in mind, and to be considered in conjunction with offences under the Conspiracy and Protection of Property Act, 1875.

of any act passed or to be passed, shall be liable to be tried, indicted and punished as a principal offender.

This provision does not extend the common law, which treats every accessory to a misdemeanor as a principal. See 1 Hale, P. C. 613 ; 4 Bla. Com. 36 ; *R. v. Greenwood*, 2 Den. C. C. 453 ; *S. C.*, 21 L. J. (N. S.) M. C. 127.

As to aiders, &c. in offences under the act, punishable on summary conviction, see 24 & 25 Vict. c. 96, s. 99. See also 11 & 12 Vict. c. 43, s. 5.

---

### 24 & 25 VICT. C. 96.

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Larceny and other similar Offences.*

*Bailees fraudulently converting Property guilty of Larceny.*—Sect. 3. “Whosoever, being a bailee of any chattel, money or valuable security, shall fraudulently take or convert the same to his own use or the use of any person other than the owner thereof, although he shall not break bulk or otherwise determine the bailment, shall be guilty of larceny, and may be convicted thereof upon an indictment for larceny; but this section shall not extend to any offence punishable on summary conviction.”

With some exceptions, this section was a re-enactment of sect. 4 of the repealed Fraudulent Trustee Act, 20 & 21 Vict. c. 54.

At common law, where goods are delivered to another upon trust (as where they are given to a carrier to carry), or where the goods are taken with the owner's consent (as where they are borrowed or hired, without any fraud in the first instance), as the carrier and other persons have a special property in the goods, as distinguished from the bare possession, the subsequent conversion of the goods, while what is termed “the contract of bailment” continues, does not amount at common law to a larceny, but only to a breach of trust, the subject of an action. (See as illustrations, *Reg. v. Gibbs*, 24 L. J. (N. S.) M. C. 62 ; *S. C. Dears. C. C. 445* ; *Reg. v. Thistle*, 19 L. J. (N. S.) M. C. 66). Nevertheless, if the contract of bailment be first determined, then the subsequent fraudulent conversion is a larceny at common law, and the bailment is said to be determined by “breaking bulk,” or by some other wrongful act. Thus, if a carrier opened a parcel or box entrusted to him he was said to break the bulk, and this determined the bailment, and his subsequently fraudulently taking the contents was larceny. See also *Reg. v. Poyser*, 20 L. J. (N. S.) M. C. 191. This technical distinction is got rid of by the provision in the text.

Mr. Greaves, Q.C., who drew the Criminal Law Consolidation Statutes, says the proviso (that the section shall not extend to any offence punishable on summary conviction) "was introduced to prevent the clause applying to the cases of persons employed in the silk, woollen, and other manufactures, who dispose of goods entrusted to them, and are liable to be summarily convicted under sundry statutes" (Edit. of Consolidation Acts).

Without the proviso, however, the section would not apply to *servants*, as the possession of a servant is in law the possession of the master. The servant is not a bailee, and there is no difficulty in applying the ordinary law of stealing to servants entrusted with the care of property, and who purloin it. The sundry statutes, however, often include cases of persons who are not strictly servants, but who undertake work, and who are, therefore, "bailees" of the property entrusted to them, and it is to such cases that Mr. Greaves' observation of course applies. It is very important, therefore, that the proviso in sect. 3 should be borne in mind, and the statutes given in this Appendix examined before proceeding to prosecute charges of misappropriation of property by persons employed in manufactures.

*Miners removing Ore with intent to defraud.*—Sect. 39. "Whosoever, being employed in or about any mine, shall take, remove, or conceal any ore of any metal, or any lapis calaminaris, manganese, mundick, or other mineral found or being in such mine, with intent to defraud any proprietor of or any adventurer in such mine, or any workman or miner employed therein, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement."

This provision was taken from the Stannaries Act, 2 & 3 Vict. c. 58, s. 10 (that section being repealed and made general).

This offence is triable at quarter sessions.

*Stealing Goods in process of Manufacture.*—Sect. 62. "Whosoever shall steal, to the value of ten shillings, any woollen, linen, hempen, or cotton yarn, or any goods or article of silk, woollen, linen, cotton, alpaca, or mohair, or of any one or more of those materials mixed with each other or mixed with any other material, whilst laid, placed, or exposed, during any stage, process, or progress of manufacture, in any building, field, or other place, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement."

This offence is triable at quarter sessions.



*Larceny by Clerks or Servants.*—Sect. 67. “Whosoever, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, shall steal any chattel, money or valuable security belonging to or in the possession or power of his master or employer, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.”

Under this section the property or money must have been in the master's possession. (See *Reg. v. Wright*, 27 L. J., M. C. 65.) This provision does not create any new offence, but only increases the punishment. See the note to the next section.

This offence is triable at quarter sessions.

*Embezzlement by Clerks or Servants.*—Sect. 68. “Whosoever, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, shall fraudulently embezzle any chattel, money or valuable security which shall (*h*) be delivered to or received or taken into possession by him for or in the name or on the account (*i*) of his master or employer, or any part thereof, shall be deemed to have feloniously stolen the same from his master or employer, although such chattel, money or security was not received into the possession of such master or employer otherwise than by the actual possession of his clerk, servant, or other person so employed, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.”

See also sect. 72 by which persons may be convicted of embezzlement on indictment for larceny and the converse.

(*h*) The words “by virtue of such employment” occurred in the repealed statute 7 & 8 Geo. 4, c. 29, s. 47, and the embezzlement of money by a servant not authorized to receive the money was not within the statute; see the cases on this point collected, Archbold's Pleading and Evidence in Criminal Cases, 14th ed. pp. 382, 383. The omission avoids this technical distinction; still it must be the master's money which is received by the servant.

*R. v. Cullum*, L. R., 2 C. C. R. 28; 42 L. J., M. C. 64.

(*i*) The receipt must be for or in the name or on account of the master (*Reg. v. Beaumont*, Dears. 270; 23 L. J., M. C. 54; *Reg. v. Harris*, Dears. 344; 23 L. J., M. C. 110); but the receipt may be in the name of one person, and yet on account of another, who is the master. See *Reg. v. Thorpe*, 1 Dears. & B. 562; 27 L. J. (N. S.) M. C. 264.

Although a servant, who entrusted by his master with goods fraudulently appropriates them to his own use, is guilty of larceny, for the possession of the servant is in law the possession of the master, yet where goods or money *of which the master has never had the possession* are delivered by a third person to the servant for the master's use, this, by a refined distinction, is not larceny, and therefore required a special enactment; recent cases illustrate the distinction. A foreman employed to sell goods for his master sold some and received the price, and concealed the transaction, and made use of the money. He could not be convicted of stealing the *goods*, for the sale was a good sale as between the master and customer, and he could not be convicted of *stealing* the money, for the master never had the possession. His real offence was embezzling the money. (*Reg. v. Betts*, Bell 90; 28 L. J. (N. S.) M. C. 69.) On the other hand, where goods duly purchased by a servant for his master were placed in the master's care, and the servant took them, it was held that the master's possession had commenced, and therefore the offence was stealing. *Reg. v. Reed*, Dears, 168, 257; 23 L. J., M. C. 25; and see *Reg. v. Watts*, 2 Den. 15, 19 L. J., M. C. 193.

Although the evidence of embezzlement frequently consists, in part, of proof that the accused has omitted to debit himself with the money received, yet even if a clerk has charged himself in his books with the receipt of the money, the fraudulent appropriation of such money is embezzlement. *Reg. v. Guelder*, Bell 284; 30 L. J. (N. S.) M. C. 34; *R. v. Lister*, Dears. & B. 119; 26 L. J., M. C. 26.

As to where (*i. e.*, the county) the offence of embezzling can be said to have been committed, see *Reg. v. Murdock*, 2 Den. C. C. 298; 21 L. J. (N. S.) M. C. 22, and cases there cited.

This offence is triable at quarter sessions.

By 31 & 32 Vict. c. 116, the summary jurisdiction given by 18 & 19 Viet. c. 126, in ordinary cases of larceny was extended to embezzlements by clerks and servants.

## 24 & 25 VICT. C. 97.

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Malicious Injuries to Property.*

*Destroying Goods in Process of Manufacture, certain Machinery, &c.*—Sect. 14. "Whosoever shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any goods or article of silk, woollen, linen, cotton, hair, mohair, or alpaca, or of any one or more of those materials mixed with each other or mixed with any other material, or any framework-knitted piece, stocking,



hose, or lace, being in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage, process, or progress of manufacture, or shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any warp or shute of silk, woollen, linen, cotton, hair, mohair, or alpaca, or of any one or more of those materials mixed with each other or mixed with any other material, or shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or render useless, any loom, frame, machine, engine, rack, tackle, tool, or implement, whether fixed or moveable, prepared for or employed in carding, spinning, throwing, weaving, fulling, shearing, or otherwise manufacturing or preparing any such goods or articles, or shall by force enter into any house, shop, building, or place, with intent to commit any of the offences in this section mentioned, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.”

*Destroying Machines in other Manufactures, Threshing Machines, &c.*]—Sect. 15. “Whosoever shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any machine or engine, whether fixed or moveable, used or intended to be used for sowing, reaping, mowing, thrashing, ploughing, or draining, or for performing any other agricultural operation, or any machine or engine, or any tool or implement, whether fixed or moveable, prepared for or employed in any manufacture whatsoever (except the manufacture of silk, woollen, linen, cotton, hair, mohair, or alpaca goods, or goods of any one or more of those materials mixed with each other or mixed with any other material, or any framework-knitted piece, stocking, hose, or lace), shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.”

Sections 26 to 29 relate to malicious injuries to mines (setting fire to a coal mine, attempting to set fire to a mine, conveying water into a mine, obstructing air-way, damaging engines for working mines, &c.)

*Persons committing Malicious Injuries not before provided for exceeding the Amount of 5l.*]—Sect. 51. “Whosoever shall



unlawfully and maliciously (*k*) commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, the damage, injury, or spoil being to an amount exceeding five pounds, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour; and in case any such offence shall be committed between the hours of nine of the clock in the evening and six of the clock in the next morning, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding five years and not less than three, or to be imprisoned for any term not exceeding two years, with or without hard labour."

This offence is triable at quarter sessions. The costs of prosecutions can be allowed : sect. 77.

*Persons committing Damage to any Property, in any Case not previously provided for, may be committed or fined, and compelled by a Justice to pay Compensation not exceeding 5l.]—Sect. 52.* "Whosoever shall wilfully or maliciously (*k*) commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, shall, on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding two months, or else shall forfeit and pay such sum of money not exceeding five pounds as to the justice shall seem meet, and also such further sum of money as shall appear to the justice to be a reasonable compensation for the damage, injury, or spoil so committed, not exceeding the sum of five pounds; which last-mentioned sum of money shall, in the case of private property, be paid to the party aggrieved; and in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in the same manner as every penalty imposed by a justice of the peace under this act; and if such sums of money, together with costs (if ordered), shall not be paid either immediately after the conviction, or within such period as the justice shall at the time of the conviction appoint, the justice may commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour as the justice shall think fit,

(*k*) "Whether the offence shall be committed from malice conceived against the owner of the property

in respect of which it shall be committed or otherwise : " sect. 58.

for any term not exceeding two months, unless such sums and costs be sooner paid: provided that nothing herein contained shall extend to any case where the party acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass, not being wilful and malicious, committed in hunting, fishing, or in the pursuit of game, but that every such trespass shall be punishable in the same manner as if this act had not passed."

See also the following section, *infra*. An appeal lies to the quarter sessions against a conviction under this section, where the sum adjudged to be paid exceeds 5*l.*, or the imprisonment exceeds one month, or the conviction is before one justice only, (see s. 68,) or either party may appeal to one of the superior courts if dissatisfied with the determination of the justice, as being erroneous in point of law: 20 & 21 Vict. c. 43.

*Preceding Section to extend to Trees.*—Sect. 53. "The provisions in the last preceding section contained shall extend to any person who shall wilfully or maliciously commit any injury to any tree, sapling, shrub, or underwood, for which no punishment is hereinbefore provided."

See sect. 66, enabling the justice on summary conviction for a first offence to discharge on making satisfaction to the party aggrieved. As to process, see sects. 61, 62, 64, 65. Aiders and abettors are punishable: sect. 63.

See the note *ante*, p. 267; and also *ante*, p. 156, as to malicious breaches of contract, under the Conspiracy and Protection of Property Act, 1875.

There is a wide distinction in these provisions of the act as to malicious injuries.

Sect. 52 uses the disjunctive—"whosoever shall wilfully *or* maliciously commit any damage"—and contains a proviso that "nothing herein contained shall extend to any case where the party acted under a fair and reasonable supposition that he had a right to do the act complained of," a proviso that, as has been observed, would be absurd if the act must be malicious as well as wilful; but under sect. 51 the words are, unlawfully *and* maliciously.

The Conspiracy and Protection of Property Act, 1875, uses the conjunctive—wilfully *and* maliciously—and as it is difficult to suppose that an act maliciously done is not also done wilfully (although it seems that there may be an absence of will as regards an injurious result although a malicious mind in regard to an act resulting in damage, see *The Queen v. Pembleton*, *ante*, pp. 156, 157—and *The Queen v. Child*, Law Rep., 1 C. C. R. 307; 40 L. J., M. C. 127, note), it is obvious that so far as the Malicious Injuries Act can be applied to the new law, sect. 51 must be looked to rather than sect. 52. The distinction between the two sections is shown by the following case:—

The defendant with several other persons, and without any notice to the complainant, forcibly entered the garden of the latter and dug a small



ditch along its length, doing damage to the amount of 1*l*. Upon a summons under sect. 52, the defendant called a witness (the owner of property in the vicinity) to prove that he gave directions for the ditch to be cut because a ditch to carry the surface drainage of a road had existed there at a former period; but it appeared the witness had submitted to its being closed fifteen years before. The justices found that the defendant did not act under a fair and reasonable supposition that he had a right to do the act complained of, and that the defendant was not acting *bonâ fide* in the assertion or exercise of any right or supposed right. They also found as a fact that the old ditch had not extended for the whole length cut by the defendant, and they convicted him. It was held that the justices had authority to convict, it not being necessary that the act should be malicious. It was sufficient if there was an absence of a fair and reasonable right, and the defendant could not be in a better position than the person who employed him, even assuming that he was told that fifteen years ago there was part of a ditch which received the surface drainage from the road on the complainant's land (*White v. Feast*, 41 L. J., M. C. 81). Blackburn, J., in his judgment, said, "It is not accurate to say that the justices have, by the common law, no jurisdiction to decide upon a question as to the right to property, because at common law the justices had no jurisdiction to deal summarily with any question whatever. A summary jurisdiction was conferred upon them by statute, and as it was supposed that they were not proper persons to decide upon questions as to the title to property, and particularly as to the title to land, the rule was laid down that such questions must be left to stronger hands. But it was decided as far back as the time of Lord Denman, that where it appeared from the purview of the whole acts that it was not contemplated that the justices should hold their hands, the ordinary rule did not apply. Then it is urged that upon the general principle, *actus non facit reum nisi mens sit rea*, the appellant is not liable. But this question depends upon the purview of the particular act, and whether it is intended to protect property and to punish even innocent trespassers against it. The words of this act are, 'whosoever shall wilfully or maliciously commit any damage to property' shall be fined. The proviso excepts cases where the party acted under a fair and reasonable supposition that he had a right to do the act complained of. If it had been intended that the act must be malicious as well as wilful, the proviso would be absurd; but the words being, wilful or malicious, it has a very sensible meaning. It must be recollected that injuries to property are often done by poor people, against whom it would be useless to bring an action; so that it is highly desirable, where there is no reasonable claim of right, that the offender should be dealt with by the magistrate. The legislature may be unwilling to allow magistrates to try the title to the freehold of property, but quite contented that they should award compensation for injury to it, whether the wrongdoer acted *bonâ fide* or not, if he had no supposition that he was in the right. It is for the magistrates to decide whether there was any such reasonable supposition, and the ordinary limitation to their power is to some



extent superseded. This being so, were the magistrates right in saying that the case did not come within the proviso? I am far from saying that there may not be cases, such as where a labourer is ordered by his employer to dig a ditch on the boundaries of his property, where the act, though wrongful, might reasonably be supposed to be lawful. But here the facts are different. . . . The appellant cannot be allowed to say, 'There was a ditch in the respondent's land twenty years ago, and therefore I have a right to turn his garden into a sewer now.'

---

24 & 25 VICT. c. 100.

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Offences against the Person.*

*Not providing Apprentices or Servants with Food, &c. whereby Life endangered.*]—Sect. 26. "Whosoever, being legally liable, either as a master or mistress, to provide for any apprentice or servant necessary food, clothing, or lodging, shall wilfully and without lawful excuse refuse or neglect to provide the same, or shall unlawfully and maliciously do or cause to be done any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant shall be endangered, or the health of such apprentice or servant shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour."

Framed on the 14 & 15 Vict. c. 11, s. 1. See *post*, sect. 73, as to the institution of prosecutions by guardians and overseers.

See also sect. 6 of the Conspiracy and Protection of Property Act, 1875, *ante*, pp. 157, 194.

Section 26 of 24 & 25 Vict. c. 100, as originally drawn and as it passed the Lords in 1860, included husband, parents, guardians, committees, and nurses, in the penal consequences, and extended the protection to a wife, child, ward, lunatic, idiot, or infant, but this extension of the original act was rejected by the committee of the House of Commons, but a clause was inserted by them as to the exposure of infants. As to the common law offence of keeping children without sufficient food, and evidence, see *Reg. v. Chandler*, Dears. C. C. 453; 24 L. J. (N. S.) M. C. 100.

This offence can be tried at quarter sessions. The costs of prosecution can be allowed: sect. 77.

*Assaults on Seamen, &c.*]—Sect. 40. "Whosoever shall unlawfully and with force hinder or prevent any seaman, keel-

man, or caster from working at or exercising his lawful trade, business, or occupation, or shall beat or use any violence to any such person with intent to hinder or prevent him from working at or exercising the same, shall, on conviction thereof before two justices of the peace, be liable to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding three months: provided that no person who shall be punished for any such offence by reason of this section shall be punished for the same offence by virtue of any other law whatsoever."

See also 33 Geo. 3, c. 67, as to the riotous assembling of keelmen and others.

Either party may appeal to one of the superior courts of common law, if dissatisfied with the determination of the justices (under sect. 40) as being erroneous in point of law: 20 & 21 Vict. c. 43.

*Guardians and Overseers may be required to prosecute in certain Cases of Offences against this Act.*]—Sect. 73. "Where any complaint shall be made of any offence against section twenty-six of this act (*l*), or of any bodily injury inflicted upon any person under the age of sixteen years, for which the party committing it is liable to be indicted, and the circumstances of which offence amount, in point of law, to a felony, or an attempt to commit a felony, or an assault with intent to commit a felony, and two justices of the peace before whom such complaint is heard shall certify under their hands that it is necessary for the purposes of public justice that the prosecution should be conducted by the guardians of the union or place, or, where there are no guardians, by the overseers of the poor of the place, in which the offence shall be charged to have been committed, such guardians or overseers, as the case may be, upon personal service of such certificate or a duplicate thereof upon the clerk of such guardians or upon any one of such overseers, shall conduct the prosecution, and shall pay the costs reasonably and properly incurred by them therein (so far as the same shall not be allowed to them under any order of any court) out of the common fund of the union, or out of the funds in the hands of the guardians or overseers, as the case may be; and, where there is a board of guardians, the clerk or some other officer of the union or place, and, where there is no board of guardians, one of the overseers of the poor may, if such justices think it necessary for the purposes of public justice, be bound over to prosecute."

Framed on the 14 & 15 Vict. c. 11, s. 6, and extended to Ireland. See also the unrepealed provisions of that act with respect to the visiting of young persons in workhouses.

(*l*) See *ante*, p. 276.

## 25 &amp; 26 VICT. C. 50.

*An Act to amend certain Provisions of the Acts of the Twenty-fourth and Twenty-fifth Years of Her Majesty, Chapters Ninety-six, Ninety-seven, Ninety-nine, and One hundred, respectively, relating to Summary Jurisdiction in Ireland.*

*Penalty on Workmen making away with Goods (not exceeding 5l. in Value) committed to his Care.]—Sect. 7. “Any artificer, workman, journeyman, apprentice, servant, or other person who shall unlawfully dispose of, or retain in his possession without the consent of the person by whom he shall be hired, retained, or employed, any goods, wares, work, or materials committed to his care or charge (the value of such goods, wares, work, or materials not exceeding the sum of five pounds), shall pay to the party aggrieved such compensation as the justices shall think reasonable, and shall also be liable to a fine not exceeding forty shillings, or to be imprisoned for a term not exceeding one month.”*

---

## 25 &amp; 26 VICT. C. 101.

*The General Police and Improvement (Scotland) Act, 1862.*

Sect. 271. “For the further prevention of fraud the magistrates shall have and may exercise the powers and jurisdictions conferred upon any justice or justices of the peace by the act 22 Geo. 2, c. 27, intituled [&c.] (*m*), and by the act 17 Geo. 3, c. 56, intituled [&c.] (*n*); and the provisions of the said acts shall apply to proceedings before the magistrates, and to acts done by them in relation thereto, in the same manner as to proceedings before and acts done by any justice or justices of the peace; and, upon an oath, or solemn affirmation, or declaration being made before the magistrates, or any justice or justices of the peace, that there is cause to suspect that any material purchased or received by any broker from any person or persons were purloined or embezzled, the magistrates of burghs, or any justice or justices of the peace, may grant warrant for bringing the person or persons from whom the broker purchased or received such materials before him or them; and, if such person or persons shall not give a satisfactory account of how he, she, or they came by such materials, such person or persons shall be deemed guilty of a misdemeanor or offence, and shall be

(*m*) See *ante*, p. 215.

(*n*) See *ante*, p. 224.



punishable accordingly, in terms of the said two last recited acts, in the same manner as if such materials had been found in the possession of such person or persons; and it shall be competent to the magistrates or to any two justices of the peace to sentence such person or persons to pay any fine not exceeding the amounts authorized by the said acts, or alternatively to commit such person or persons to prison for any period not exceeding the periods authorized by the said acts; and it shall not be necessary before committing such person or persons to prison to levy such fines by distress and sale, or to use any legal diligence for recovery thereof."

---

26 & 27 VICT. C. 103.

*An Act to amend the Law in certain Cases of Misappropriation by Servants of the Property of their Masters (o).*

Reciting that "the offence of taking corn or other food by a servant from the possession of his master, contrary to his orders, for the purpose of giving the same or of having the same given to the horses or other animals of such master, is by law a felony" (*p*); and that "it is desirable to alter the law in this respect," enacts,—

*Servants taking their Master's Corn, &c. without Authority, for the purpose of giving the same to their Master's Horses, &c., not guilty of Felony, but shall be liable to Imprisonment, &c.*—Sect. 1. "If any servant shall, contrary to the orders of his master, take from his possession any corn, pulse, roots, or other food, for the purpose of giving the same or of having the same given to any horse or other animal belonging to or in the possession of his master, the servant so offending shall not by reason thereof be deemed guilty of or be proceeded against for felony, but shall, on conviction of such offence before two justices of the peace, at their discretion,

(*o*) This act was due in part at least to the protest of my late most excellent friend, Mr. J. G. Phillimore, Q.C., and Member of Parliament for Leominster, whose indignation at all injustice and oppression I remember with admiration, mixed with regret that his life did not endure beyond its prime.

(*p*) This was so determined by a majority of the judges in *The King v. Morfit*, R. & R. 307. It was thought by some of the judges forming the majority that the addi-

tional quantity of food given by the prisoners (who were servants in husbandry) to the master's horses, would diminish the work of the men who had to look after the horses, and therefore the *lucris causâ* to give themselves ease was an ingredient in the offence; but subsequent cases established that the offence was larceny, even if the intent of obtaining a private benefit were negatived. See *The Queen v. Pri-vett*, 1 Den. C. C. 193; 2 C. & K. 114.

either be imprisoned, with or without hard labour, for any term not exceeding three months, or else shall forfeit and pay such penalty as shall appear to them to be meet, not exceeding the sum of five pounds, and if such penalty shall not be paid, either immediately after the conviction, or within such period as the said justices shall at the time of the conviction appoint, the servant so offending shall be imprisoned, with or without hard labour, for any term not exceeding three months, unless such penalty be sooner paid: provided always, that if upon the hearing of the charge the said justices shall be of opinion that the same is too trifling, or that there are circumstances in the case which render it inexpedient to inflict any punishment, they shall have power to dismiss the charge, without proceeding to a conviction: provided also, that if upon the trial of any servant for feloniously taking from his master any corn, pulse, roots, or other food consumable by horses or other animals, such servant shall allege that he took the same under such circumstances as would constitute an offence punishable under this act, and thereof shall satisfy the jury charged with his trial, then it shall be lawful for such jury to return a verdict accordingly; and thereupon the court before which such trial shall take place shall proceed to award such punishment against such servant as may be awarded by two justices of the peace on the conviction of any person under the provisions of this act: provided also, that in case of nonpayment of any penalty to be imposed by the court on such servant, he shall be imprisoned, with or without hard labour, for any term not exceeding three months, as the court shall order, unless such penalty be sooner paid."

Sect. 2. Power to appeal against conviction.

Sect. 3. No such conviction or adjudication made on appeal to be quashed for want of form, or be removed by certiorari, and no warrant of commitment void by reason of defect.

Sect. 4. Summary proceedings may be under 11 & 12 Vict. c. 43, unless repugnant to this act, &c.

Sect. 5. This act shall extend to England only.

Sect. 6. Commencement of act.

---

## 28 & 29 VICT. C. 86.

### *An Act to amend the Law of Partnership.*

Sect. 2. "No contract for the remuneration of a servant or agent of any person engaged in any trade or undertaking by a share of the profits of such trade or undertaking shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner."

## 30 &amp; 31 VICT. C. 105.

*An Act to establish equitable Councils of Conciliation to adjust Differences between Masters and Workmen.*

[See the act in Lovesy's Law of Arbitrations between Masters and Workmen.]

---

## 30 &amp; 31 VICT. C. 130.

*The Agricultural Gangs Act, 1867.*

Although affecting employers and employed, it is unnecessary to do more than give the title of the act. It has for its chief object the promotion of the education of children in certain agricultural districts.

---

## 32 &amp; 33 VICT. C. 71.

*The Bankruptcy Act, 1869.*

By sect. 32, one year's parochial and local rates and taxes and "all wages or salary of any clerk or servant in the employment of the bankrupt at the date of the order of adjudication, not exceeding four months' wages or salary and not exceeding fifty pounds; all wages of any labourer or workman in the employment of the bankrupt at the date of the order of adjudication and not exceeding two months' wages," are to be paid in priority to all other debts. "Between themselves such debts shall rank equally and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves."

By sect. 33, "Where at the time of the presentation of the petition for adjudication any person is apprenticed . . . to the bankrupt the order of adjudication shall, if either the bankrupt or apprentice . . . give notice in writing to the trustee to that effect, be a complete discharge of the indenture of apprenticeship . . . ; and if any money has been paid by or on behalf of such apprentice . . . to the bankrupt as a fee, the trustee may, on the application of the apprentice . . . or of some person on his behalf, pay such sum as such trustee, subject to an appeal to the court, thinks reasonable, out of the bankrupt's property, to or for the use of the apprentice . . . regard being had to the amount paid by him or on



his behalf and to the time during which he served with the bankrupt under the indenture . . . before the commencement of the bankruptcy and to the other circumstances of the case.

“Where it appears expedient to a trustee he may, on the application of any apprentice . . . to the bankrupt, or any person acting on behalf of such apprentice . . . instead of acting under the preceding provisions of this section, transfer the indenture of apprenticeship . . . to some other person.”

See 38 & 39 Vict. c. 26, as to wages of servants of bankrupts in Scotland.

---

### 33 & 34 VICT. c. 30.

#### *The Wages Attachment Abolition Act, 1870.*

This act, reciting that much inconvenience had arisen by the attachment of wages in the county courts, and that it was expedient to prevent the attachment of wages to satisfy judgments recovered in any court of record or inferior court, enacts that—

Sect. 1. “No order for the attachment of the wages of any servant, labourer, or workman shall be made by the judge of any court of record or inferior court.”

By an act of the same session, 33 & 34 Vict. c. 63 (the Wages Arrestment Limitation (Scotland) Act, 1870), the liability of wages to “arrestment” for debt is limited.

---

### 34 & 35 VICT. c. 31.

#### *The Trade Union Act, 1871.*

Sect. 2. “The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise.

Sect. 3. “The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust.”

The other provisions of the act affect the members of a union more than the public.

---

## 35 &amp; 36 VICT. C. 46.

*The Arbitration (Masters and Workmen) Act, 1872.*

Reciting 5 Geo. 4, c. 96 (referred to as the "principal act"):

And that it is expedient to make further provision for arbitration between masters and workmen, enacts:

*As to Agreements under this Act.*]—Sect. 1. "The following provisions shall have effect with reference to agreements under this act:

(1.) An agreement under this act shall either designate some board, council, persons or person as arbitrators or arbitrator, or define the time and manner of appointment of arbitrators or of an arbitrator; and shall designate, by name or by description of office or otherwise, some person to be, or some person or persons (other than the arbitrators or arbitrator) to appoint an umpire in case of disagreement between arbitrators:

(2.) A master and a workman shall become mutually bound by an agreement under this act (hereinafter referred to as "the agreement") upon the master or his agent giving to the workman and the workman accepting a printed copy of the agreement:

Provided that a workman may, within forty-eight hours after the delivery to him of the agreement, give notice to the master or his agent that he will not be bound by the agreement, and thereupon the agreement shall be of no effect as between such workman and the master:

(3.) When a master and workman are bound by the agreement they shall continue so bound during the continuance of any contract of employment and service which is in force between them at the time of making the agreement, or in contemplation of which the agreement is made, and thereafter so long as they mutually consent from time to time to continue to employ and serve without having rescinded the agreement. Moreover, the agreement may provide that any number of days' notice, not exceeding six, of an intention on the part of the master or workman to cease to employ or be employed shall be required, and in that case the parties to the agreement shall continue bound by it respectively until the expiration of the required number of days after such notice has been given by either of the parties:

(4.) The agreement may provide that the parties to it shall, during its continuance, be bound by any rules con-

tained in the agreement, or to be made by the arbitrators, arbitrator, or umpire as to the rate of wages to be paid, or the hours or quantities of work to be performed, or the conditions or regulations under which work is to be done, and may specify penalties to be enforced by the arbitrators, arbitrator, or umpire for the breach of any such rule :

- (5.) The agreement may also provide that in case any of the following matters arise they shall be determined by the arbitrators or arbitrator, viz.:

*a.* Any such disagreement or dispute as is mentioned in the second section of the principal act ; or

*b.* Any question, case, or matter to which the provisions of the Master and Servant Act, 1867, apply ;

and thereupon in case any such matter arises between the parties while they are bound by the agreement the arbitrators, arbitrator, or umpire, shall have jurisdiction for the hearing and determination thereof, and upon their or his hearing and determining the same no other proceeding shall be taken before any other court or person for the same matter ; but if the disagreement or dispute is not so heard and determined within twenty-one days from the time when it arose, the jurisdiction of the arbitrators, arbitrator, or umpire shall cease, unless the parties have, since the arising of the disagreement or dispute, consented in writing that it shall be exclusively determined by the arbitrators, arbitrator, or umpire :

A disagreement or dispute shall be deemed to arise at the time of the act or omission to which it relates :

- (6.) The arbitrators, arbitrator, or umpire may hear and determine any matter referred to them in such manner as they think fit, or as may be prescribed by the agreement :
- (7.) The agreement, and also any rules made by the arbitrators, arbitrator, or umpire in pursuance of its provisions, shall in all proceedings as well before them as in any court be evidence of the terms of the contract of employment and service between the parties bound by the agreement :
- (8.) The agreement shall be deemed to be an agreement within the meaning of the thirteenth section of the principal act for all the purposes of that act :
- (9.) If the agreement provides for the production or examination of any books, documents, or accounts, subject or not to any conditions as to the mode of their pro-



duction or examination, the arbitrators, arbitrator, or umpire may require the production or examination (subject to any such conditions) of any such books, documents, or accounts in the possession or control of any person summoned as a witness, and who is bound by the agreement, and the provisions of the principal act, for compelling the attendance and submission of witnesses, shall apply for enforcing such production or examination."

---

## 35 &amp; 36 VICT. C. 76.

*An Act to consolidate and amend the Acts relating to the Regulation of Coal Mines, and certain other Mines.*

This act applies to mines of coal, mines of stratified iron-stone, mines of shale, and mines of fire-clay. Besides a variety of provisions relating to the management of coal mines, including regulations for the employment of women, young persons and children, and the responsibility of owners, agents, managers, workmen, and the parents and guardians of children and young persons, the act contains the following clauses relating to "wages :"

*Prohibition of Payment of Wages at Public-houses, &c.]*

—Sect. 16. "No wages shall be paid to any person employed in or about any mine to which this act applies at or within any public house, beer shop, or place for the sale of any spirits, beer, wine, cyder, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging or contiguous thereto, or occupied therewith.

"Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with this section shall be guilty of an offence against this act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this act, unless he prove that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent such contravention or non-compliance."

*As to Payment of Persons employed in Mines by Weight.]*

—Sect. 17. "Where the amount of wages paid to any of the persons employed in a mine to which this act applies depends on the amount of mineral gotten by them, such persons shall, after the first day of August one thousand eight hundred and seventy-three, unless the mine is exempted by a secretary of

state, be paid according to the weight of the mineral gotten by them, and such mineral shall be truly weighed accordingly.

“Provided always, that nothing herein contained shall preclude the owner, agent, or manager of the mine from agreeing with the persons employed in such mine that deductions shall be made in respect of stones or materials other than mineral contracted to be gotten, which shall be sent out of the mine with the mineral contracted to be gotten, or in respect of any tubs, baskets, or hutches being improperly filled in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him, such deductions being determined by the banksman or weigher and check weigher (if there be one), or in case of difference by a third party to be mutually agreed on by the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other.

“Where it is proved to the satisfaction of a secretary of state that by reason of any exigencies existing in the case of any mine or class of mines to which the foregoing provision in this section applies, it is requisite or expedient that the persons employed in such mine or class of mines should not be paid by the weight of the mineral gotten by them, or that the beginning of such payment by weight should be postponed, such secretary of state may, if he think fit, by order exempt such mine or class of mines from the provisions of this section, either without condition or during the time and upon the conditions specified in the order, or postpone in such mine or class of mines the beginning of such payment by weight, and may from time to time revoke or alter any such order.

“If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section, he shall be guilty of an offence against this act; and in the event of any contravention of or non-compliance with this section by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this act, unless he prove that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent such contravention and non-compliance.”

*Appointment and Removal of Check Weigher on part of Men.*—Sect. 18. “The persons who are employed in a mine to which this act applies, and are paid according to the weight of the mineral gotten by them, may, at their own cost, station a person (in this act referred to as “a check weigher”) at the place appointed for the weighing of such mineral, in order to take an account of the weight thereof on behalf of the persons by whom he is so stationed. The check weigher shall be one of the persons employed either in the mine at which he is so



stationed or in another mine belonging to the owner of that mine. He shall have every facility afforded to him to take a correct account of the weighing for the persons by whom he is so stationed; and if in any mine proper facilities are not afforded to the check weigher as required by this section, the owner, agent, and manager of such mine shall each be guilty of an offence against this act, unless he prove that he had taken all reasonable means by enforcing to the best of his power the provisions of this section to prevent such contravention or non-compliance.

“The check weigher shall not be authorized in any way to impede or interrupt the working of the mine, or to interfere with the weighing, but shall be authorized only to take such account as aforesaid, and the absence of the check weigher shall not be a reason for interrupting or delaying such weighing.

“If the owner, agent, or manager of the mine desires the removal of a check weigher on the ground that such check weigher has impeded or interrupted the working of the mine, or interfered with the weighing, or has otherwise misconducted himself, he may complain to any court of summary jurisdiction, who, if of opinion that the owner, agent, or manager shows sufficient *prima facie* ground for the removal of such check weigher, shall call upon the check weigher to show cause against his removal. On the hearing of the case the court shall hear the parties, and, if they think that at the hearing sufficient ground is shown by the owner, agent, or manager to justify the removal of the check weigher, shall make a summary order for his removal, and the check weigher shall thereupon be removed, but without prejudice to the stationing of another check weigher in his place.

“The court may in every case make such order as to the costs of the proceedings as they think just.

“If in pursuance of any order of exemption made by a secretary of state, the persons employed in a mine to which this act applies are paid by the measure or gauge of the material gotten by them, the provisions of this section shall apply in like manner as if the term ‘weighing’ included measuring and gauging, and the terms relating to weighing shall be construed accordingly.”

*Application of Weights and Measures Act to Weights used in Mines, &c.*—Sect. 19. “The Weights and Measures Act, or any act for the time being in force relating to weights and measures, shall apply to the weights used in any mine to which this act applies for determining the wages payable to any person employed in such mine according to the weight of the mineral gotten by such person, in like manner as it applies to weights used for the sale of any article, and the inspector of weights and measures for the district appointed under the said act shall



accordingly from time to time, but without unnecessarily impeding or interrupting the working of the mine, inspect and examine, in manner directed by the said act, the weighing machines and weights used for mines to which this act applies, or the measures or gauges used for such mines: provided that nothing in this section shall prevent the use of the measures and gauges ordinarily used in such mine.

“The term ‘Weights and Measures Act’ in this section means—

(a.) As to Great Britain, the act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter sixty-three, ‘to repeal an act of the fourth and fifth year of his present Majesty relating to weights and measures, and to make other provisions instead thereof;’ and,

(b.) As to Ireland, the Weights and Measures (Ireland) Amendment Act, 1862, as amended by the act of the session of the thirtieth and thirty-first years of the reign of her present Majesty, chapter ninety-four, ‘to provide for the inspection of weights and measures, and to regulate the law relating thereto in certain parts of the police district of Dublin metropolis.’”

Sect. 51, which provides *general rules* to be observed, so far as is reasonably practicable in every mine to which the act applies, contains the following instructions:—

Sub-sect. 30. “The persons employed in a mine may from time to time appoint two of their number to inspect the mine at their own cost, and the persons so appointed shall be allowed, once at least in every month, accompanied, if the owner, agent, or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working places, return airways, ventilating apparatus, old workings, and machinery, and shall be afforded by the owner, agent, and manager, and all persons in the mine, every facility for the purpose of such inspection, and shall make a true report of the result of such inspection, and such report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the persons who made the same.”

Sub-sect. 31. “The books mentioned in this section, or a copy thereof, shall be kept at the office at the mine, and any inspector under this act, and any person employed in the mine, may, at all reasonable times, inspect and take copies of and extracts from any such books.

“Every person who contravenes or does not comply with any of the general rules in this section shall be guilty of an offence against this act; and in the event of any contravention of or non-compliance with any of the said general rules in the

case of any mine to which this act applies, by any person whomsoever, being proved, the owner, agent, and manager shall each be guilty of an offence against this act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine, to prevent such contravention or non-compliance" (q).

With respect to Special Rules, the act provides:—

*Special Rules.*]—Sect. 52. "There shall be established in every mine to which this act applies such rules (referred to in this act as special rules) for the conduct and guidance of the persons acting in the management of such mine or employed in or about the same as, under the particular state and circumstances of such mine, may appear best calculated to prevent dangerous accidents, and to provide for the safety and proper discipline of the persons employed in or about the mine, and such special rules, when established, shall be signed by the inspector who is inspector of the district at the time such rules are established, and shall be observed in and about every such mine, in the same manner as if they were enacted in this act.

"If any person who is bound to observe the special rules established for any mine acts in contravention of or fails to comply with any of such special rules, he shall be guilty of an offence against this act, and also the owner, agent, and manager of such mine, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine so as to prevent such contravention or non-compliance, shall each be guilty of an offence against this act."

*Establishment of new Special Rules.*]—Sect. 53. "The owner, agent, or manager of every mine to which this act

(q) Nevertheless there must be a *mens rea* to uphold a conviction under this section. See *Dickenson v. Fletcher*, 43 L. J., M. C. 25. Upon corresponding provisions respecting general rules for ventilation, in the repealed statute 23 & 24 Vict. c. 151, a question was raised in *Wilson v. Merry*, in the House of Lords (Law Rep., 1 Scotch Appeal Cases, 326) as to how far a violation of the statutable obligation gave a right of action against the mine owner for injuries sustained, notwithstanding the absence of such personal negligence as would make a master responsible to his servant at common law; but the point was not decided, the question not having been raised in the court below. Lord

Colonsay, however, said: "I am not disposed to pronounce any opinion in reference to the effect of that statute. There may possibly be questions of considerable nicety arising upon it. It is a public statute passed for the avowed purpose of giving greater safety to workmen in mines; it imposes duties upon the owners of mines, and a question may perhaps be raised as to whether workmen engaging in the service of a mine owner may not be entitled to rely upon the due performance of such duties, as being implied in the contract of service." (See the observations *ante*, p. 263, in relation to fencing machinery under the Factory Acts.)



applies shall frame and transmit to the inspector of the district, for approval by a secretary of state, special rules for such mine within three months after the commencement of this act, or within three months after the commencement (if subsequent to the commencement of this act) of any working for the purpose of opening a new mine or of renewing the working of an old mine.

“The proposed special rules, together with a printed notice specifying that any objection to such rules on the ground of anything contained therein or omitted therefrom may be sent by any of the persons employed in the mine to the inspector of the district, at his address, stated in such notice, shall, during not less than two weeks before such rules are transmitted to the inspector, be posted up in like manner as is provided in this act respecting the publication of special rules for the information of persons employed in the mine, and a certificate that such rules and notice have been so posted up shall be sent to the inspector with the rules, signed by the person sending the same.

“If the rules are not objected to by the secretary of state within forty days after their receipt by the inspector, they shall be established.”

*Publication of Special Rules.*]—Sect. 57. “For the purpose of making known the special rules and the provisions of this act to all persons employed in and about each mine to which this act applies, an abstract of the act supplied, on the application of the owner, agent, or manager of the mine, by the inspector of the district on behalf of a secretary of state, and an entire copy of the special rules shall be published as follows:—

- (1.) The owner, agent, or manager of such mine shall cause such abstract and rules, with the name and address of the inspector of the district, and the name of the owner or agent and of the manager appended thereto, to be posted up in legible characters, in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed; and so often as the same become defaced, obliterated, or destroyed, shall cause them to be renewed with all reasonable despatch:
- (2.) The owner, agent, or manager shall supply a printed copy of the abstract and the special rules gratis to each person employed in or about the mine who applies for such copy at the office at which the persons immediately employed by such owner, agent, or manager are paid:
- (3.) Every copy of the special rules shall be kept distinct from any rules which depend only on the contract between the employer and employed.



“In the event of any non-compliance with the provisions of this section by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this act; but the owner, agent, or manager of such mine shall not be deemed guilty if he prove that he had taken all reasonable means, by enforcing to the best of his power the observance of this section, to prevent such non-compliance.”

*Defacing Notices.*]—Sect. 58. “Every person who pulls down, injures, or defaces any proposed special rules, notice, abstract, or special rules when posted up in pursuance of the provisions of this act with respect to special rules, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this act.”

---

### 35 & 36 VICT. C. 77.

#### *An Act to consolidate and amend the Law relating to Metalliferous Mines.*

This act applies “to every mine of whatever description, other than a mine to which the Coal Mines Regulation Act, 1872, applies.”

It contains the following clause relating to wages, nearly but not in the precise terms of the corresponding section of the Coal Mines Regulation Act:—

*Prohibition of Payment of Wages at Public Houses, &c.*]—Sect. 9. “No wages shall be paid to any person employed in or about any mine to which this act applies at or within any public house, beer shop, or place for the sale of any spirits, wine, beer, cyder, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging or contiguous thereto, or occupied therewith.

“Every person who contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section shall be guilty of an offence against this act, and in the event of any such contravention or non-compliance in the case of any mine by any person whomsoever, the owner and agent of such mine shall each be guilty of an offence against this act, unless he prove that he had taken all reasonable means by publishing, and to the best of his power enforcing, the provisions of this section to prevent such contravention or non-compliance.”

The act contains (sect. 23) general rules with a concluding paragraph corresponding with the terms of subsect. 30 of sect. 51 of the Coal Mines Act, *ante*, p. 288. The act also contains similar provisions respecting special rules.

This act was amended, as to annual returns, by 38 & 39 Vict. c. 39.

## 37 &amp; 38 VICT. C. 48.

*The Hosiery Manufacture Wages Act, 1874 (r).*

Reciting that “a custom has prevailed among the employers of artificers in the hosiery manufacture of letting out frames and machinery to the artificers employed by them, and it is desirable to prohibit such letting of frames and machinery, and the stoppage of wages for frame rents and charges in the hosiery manufacture:” and enacts as follows:

*Wages to be paid without any Stoppages whatever.]—*Sect. 1. “In all contracts for wages the full and entire amount of all wages the earnings of labour in the hosiery manufacture shall be actually and positively made payable in net, in the current coin of the realm, and not otherwise, without any deduction or stoppage of any description whatever, save and except for bad and disputed workmanship.”

*Contracts to stop Wages and for Frame Rents illegal.]—*Sect. 2. “All contracts to stop wages, and all contracts for frame rents and charges, between employer and artificers, shall be and are hereby declared to be illegal, null, and void.”

*Penalty for bargaining to deduct and for deducting from Wages.]—*Sect. 3. “If any employer shall bargain to deduct, or shall deduct, directly or indirectly, from the wages of any artificer in his employ any part of such wages for frame rent and standing or other charges, or shall refuse or neglect to pay the same or any part thereof in the current coin of the realm, he shall forfeit a sum of five pounds for every offence, to be recovered by the said artificer or any other person suing for the same in the county court in the district where the offence is committed, with full costs of suit.”

*Penalty for using Frame otherwise than for the purpose for which same lent.]—*Sect. 4. “If any frame or machine which shall have been entrusted to any artificer or other person by his employer for the purpose of being used in the hosiery manufacture for such employer, or in any process incident to such manufacture, shall, whilst the same shall be so entrusted, be worked, used, or employed without the consent in writing of such employer or other person so entrusting such frame or machine, in the manufacture of any goods or articles whatever for any other person than the person by whom such frame or machine shall have been so entrusted, then and in every such case the artificer or other person to whom the same shall have

(r) See *ante*, p. 246. The penalty in sect. 3 does not attach to the deduction of fines for absence without permission, according to workshop regulations signed by the artificer (who is paid by “piece

work”). *Wallis v. Thorp*, 44 L. J., Q. B. 137. It seems to have been in consequence of this decision that sect. 11 of 38 & 39 Vict. c. 90 (*ante*, p. 171) was introduced.



been so entrusted shall forfeit and pay the sum of ten shillings for every day on any part of which any such frame or machine shall have been so worked, used, or employed, to be recoverable by and for the benefit of the person who shall have so entrusted the same, in the county court for the district where the offence shall have been committed, with full costs of suit."

*No Action to be allowed in respect of any such Bargaining.*—Sect. 5. "No action, suit, or set-off between employer and artificer shall be allowed for any deduction or stoppage of wages, nor for any contract hereby declared illegal."

*Not to prevent the Recovery by Employer of any Debt due to him from Artificer.*—Sect. 6. "Nothing in this act contained shall extend to prevent the recovery in the ordinary course of law, by suit brought or commenced for the purpose, of any debt due from the artificer to the employer."

*Definition of Terms.*—Sect. 7. "Within the meaning and for the purposes of this act, all workmen, labourers, and other persons in any manner engaged in the performance of any employment or operation, of what nature soever, in or about the hosiery manufacture, shall be and be deemed 'artificers;' and, within the meaning and for the purposes aforesaid, all masters, foremen, managers, clerks, contractors, sub-contractors, middlemen, and other persons engaged in the hiring, employment, or superintendence of the labour of any such artificers shall be and be deemed to be 'employers;' and, within the meaning and for the purposes of this act, any money or other thing had or contracted to be paid, delivered, or given as a recompense, reward, or remuneration for any labour done or to be done, whether within a certain time or to a certain amount, or for a time or for an amount uncertain, shall be deemed and taken to be the wages of such labour; and, within the meaning and for the purposes aforesaid, any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, whether direct or indirect, to which the employer and artificers are parties or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them, shall be and be deemed a 'contract.'"

### 38 & 39 VICT. C. 17.

*An Act to amend the Law with respect to manufacturing, keeping, selling, carrying and importing Gunpowder, Nitro-Glycerine and other Explosive Substances.*

This act, which takes effect from 1st January, 1876, contains various provisions and general rules applicable to persons



working in the manufactories, including dress, the description of tools and implements, smoking, and preventing persons under sixteen from being employed or entering any dangerous building except in the presence and under the supervision of a grown-up person.

---

### MUTINY ACTS.

The Annual Mutiny Acts contain clauses preventing persons enlisting being taken for breaches of contract of service.

The Mutiny Act of the present year (1875—1876), 38 & 39 Vict. c. 7, enacts (sect. 40), that “any person attested for her Majesty’s army, or serving on the permanent staff of the disembodied militia or volunteers other than as a commissioned officer, shall be liable to be taken out of her Majesty’s service only by process or execution on account of any charge of felony or of misdemeanor, or of any crime or offence other than the misdemeanor of absenting himself from his service, or neglecting to fulfil his contract, or otherwise misconducting himself respecting the same, or the misdemeanor of refusing to comply with an order of justices for the payment of money, or on account of an original debt proved by affidavit of the plaintiff or of some one on his behalf to amount to the value of thirty pounds at the least . . . ; but no soldier or other person as aforesaid shall be liable by any process whatever to appear before any justice of the peace or other authority whatever, or to be taken out of her Majesty’s service by any writ, summons, warrant, order, judgment, execution, or any process whatsoever issued by or by the authority of any court of law, or any magistrate, justice or justices of the peace, or any other authority whatsoever, for any original debt not amounting to thirty pounds, or for the breach of any contract, covenant, agreement, or other engagement whatever by parol or in writing, or for having left or deserted his employer or master, or his contract, work, or labour, or misconducting himself respecting the same, except in the case of an apprentice, or of an indentured labourer (s), as hereinafter described; and all summonses, warrants, commitments, indictments, convictions, judgments, and sentences on account of any of the matters for which it is herein declared that a soldier or other person as aforesaid is not liable to be taken out of her Majesty’s service shall be utterly illegal, and null and void, to all intents and purposes; and any judge of any such court may examine into any complaint made by a soldier or by his superior officer, and

(s) Indentured labourer refers to the colonies.

by warrant under his hand discharge such soldier, without fee, he being shown to have been arrested contrary to the intent of this act, and shall award reasonable costs to such complainant, who shall have for the recovery thereof the like remedy as would have been applicable to the recovery of any costs which might have been awarded against the complainant in any judgment or execution as aforesaid, or a writ of habeas corpus ad subjiciendum shall be awarded or issued, and the discharge of any such soldier out of custody shall be ordered thereupon; provided that any plaintiff, upon notice of the cause of action first given in writing to any soldier, or left at his last quarters, may proceed in any action or suit to judgment, and have execution other than against the body or military necessities or equipments of such soldier; provided also, that nothing herein contained relating to the leaving or deserting a master or employer, or to the breach of any contract, agreement, or engagement, shall apply to persons who shall be really and bonâ fide apprentices, duly bound, under the age of twenty-one years, or to indentured labourers, as hereinafter prescribed."

The Mutiny Act contains the following further provisions respecting apprentices:—

Sect. 57. "Any person duly bound as an apprentice in Great Britain or Ireland, or as an indentured labourer in any of her Majesty's colonies or possessions abroad, who shall enlist as a soldier in her Majesty's army, and shall falsely state to the magistrate before whom he shall be carried and attested that he is not an apprentice or indentured labourer as aforesaid, shall be deemed guilty of obtaining money under false pretences, if in England or in Ireland, or in the colonies or possessions aforesaid, and of falsehood, fraud, and wilful imposition, if in Scotland, and shall after the expiration of his apprenticeship, or of his indenture as a labourer, whether he shall have been so convicted and punished or not, be liable to serve as a soldier in her Majesty's army according to the terms of the enlistment, and if on the expiration of his apprenticeship, or of his indenture as a labourer, he shall not deliver himself up to some officer authorized to receive recruits, such person may be taken as a deserter from her Majesty's army; and no master shall be entitled to claim an apprentice or an indentured labourer as aforesaid who shall enlist as a soldier in her Majesty's army, or shall be serving in the embodied militia, unless he shall, within one calendar month after such apprenticeship or indentured labourer shall have left his service, go before some justice, and take the oath mentioned in the schedule to this act annexed, and shall produce the certificate of such justice of his having taken such oath, which certificate such justice is required to give in the form in the schedule to this act annexed, and unless such apprentice shall have been bound,



if in England, for the full term of five years, not having been above the age of fourteen when so bound, and, if in Ireland or in the British Isles, for the full term of five years at the least, not having been above the age of sixteen when so bound, and, if in Scotland, for the full term at least of four years, by a regular contract or indenture of apprenticeship, duly executed, signed and tested, and binding on both parties by the law of Scotland, prior to the period of enlistment, and unless such contract or indenture in Scotland shall, within three months after the commencement of the apprenticeship, and before the period of enlistment, have been produced to a justice of the peace of the county in Scotland wherein the parties reside, and there shall have been indorsed thereon by such justice a certificate or declaration signed by him specifying the date when and the person by whom such contract or indenture was so produced, which certificate or declaration such justice of the peace is hereby required to indorse and sign, and unless such apprentice shall, when claimed by such master, be under twenty-one years of age: provided always, that any master of an apprentice indentured for the sea service, or of any indentured labourer in her Majesty's colonies or possessions abroad, shall be entitled to claim and recover him in the form and manner above directed, notwithstanding such apprentice or indentured labourer may have been bound for a less term than five or four years as aforesaid: provided also, that any master who shall give up the indentures of his apprentice or of his labourer as aforesaid within one month after the enlisting of such apprentice or indentured labourer shall be entitled to receive to his own use so much of the bounty payable to such recruit as shall not have been paid to such recruit before notice given of his being an apprentice or an indentured labourer."

Sect. 58. "No apprentice or indentured labourer claimed by his master as aforesaid shall be taken from any corps or recruiting party, except under a warrant of a justice residing near, and within whose jurisdiction such apprentice or indentured labourer shall then happen to be, before whom he shall be carried; and such justice shall inquire into the matter upon oath, which oath he is hereby empowered to administer, and shall require the production and proof of the indenture, and that notice of the said warrant has been given to the commanding officer, and a copy thereof left with some officer or non-commissioned officer of the party, and that such person so enlisted declared that he was no apprentice or indentured labourer; and such justice, if required by such officer or non-commissioned officer, shall commit the offender to the common gaol of the county, division, or place for which such justice is acting, and shall keep the indenture to be produced when required, and shall bind over such person as he may think proper to give



evidence against the offender, who shall be tried at the next or at the sessions immediately succeeding the next general or quarter sessions of such county, division, or place, unless the court shall for just cause put off the trial ; and the production of the indenture, with the certificate of the justice that the same was proved, shall be sufficient evidence of the said indenture ; and every such offender in Scotland may be tried by the judge ordinary in the county or stewartry in such and the like manner as any person may be tried in Scotland for any offence not inferring a capital punishment : provided always, that any justice not required as aforesaid to commit such apprentice or indentured labourer may deliver him to his master."

The provisions of the Marine Mutiny Act vary somewhat from the above.

The act of the current year, 38 & 39 Vict. c. 8, enacts that :—

Sect. 54. "Any person enlisted into her Majesty's Royal Marine forces as a marine, or who has received marine enlistment money, shall be liable to be taken out of her Majesty's service only by process or execution on account of any charge of felony, or on account of misdemeanor, or of any crime or offence other than the misdemeanor of refusing to comply with an order of justices for the payment of money, or on account of an original debt proved by affidavit of the plaintiff or of some one on his behalf to amount to the value of thirty pounds at the least over and above all costs of suit, such affidavit to be sworn, without payment of any fee, before some judge of the court out of which process or execution shall issue, or before some person authorized to take affidavits in such court, of which affidavit, when duly filed in such court, a memorandum shall, without fee, be endorsed upon the back of such process, stating the fact sworn to, and the day of filing such affidavit ; but no marine or other person as aforesaid shall be liable by any process whatever to appear before any justice of the peace or other authority whatsoever, or to be taken out of her Majesty's service by any writ, summons, order, warrant, judgment, execution, on any process whatever issued by or by the authority of any court of law, or any magistrate, justice or justices of the peace, or any other authority whatsoever, for any original debt not amounting to thirty pounds, or for the breach of any contract, covenant, agreement, or other engagement whatever, by parol or in writing, or for having left or deserted his employer or master, or his contract, work, or labour ; and all summonses, warrants, commitments, indictments, convictions, judgments, and sentences, on account of any of the matters for which it is herein declared that a marine is not liable to be taken out of her Majesty's service, shall be utterly illegal, and null and void to all intents and purposes ; and any judge of any such court

may examine into any complaint made by a marine or by his superior officer, and by warrant under his hand discharge such marine, without fee, he being shown to have been arrested contrary to the intent of this act, and shall award reasonable costs to such complainant, who shall have for the recovery thereof the like remedy as would have been applicable to the recovery of any costs which might have been awarded against the complainant in any judgment or execution as aforesaid, or a writ of habeas corpus ad subjiciendum shall be awarded or issued, and the discharge of any such marine out of custody shall be ordered thereupon; provided that any plaintiff, upon notice of the cause of action first given in writing to any marine or left at his last quarters, may proceed in any action or suit to judgment, and have execution other than against the body or marine necessities or equipments of such marine: provided also, that nothing herein contained relating to the leaving or deserting a master or employer, or to the breach of any contract, agreement, or engagement, shall apply to persons who shall be really and bonâ fide apprentices duly bound under the age of twenty-one years as herein prescribed."

As regards apprentices, the provisions of the Marine Mutiny Act closely follow those of the Mutiny Act for the army.

---

### 38 & 39 VICT. C. 69.

#### *An Act to consolidate and amend certain Laws relating to the Militia of the United Kingdom.*

This act contains the following "provision as to servants enrolled."

*Enlistment of Servants not to vacate their Contracts with their Masters unless the Militia be embodied, &c.*—Sect. 78. "If any servant whatever hired by the year or otherwise be enlisted as a militiaman by virtue of this act, such enlistment shall not vacate or rescind the contract or alter the engagement between such servant and his master or employer, unless the militia of the county for which such servant is enlisted be embodied under this act, or unless such person so enlisted leave the service of his master or employer for the purpose of preliminary training or training and exercise in pursuance of this act, and do not return again to the same service at the end of the period of preliminary training or training and exercise, or as soon after as reasonably may be, but his master or employer shall be entitled to an abatement from his wages in proportion to the duration of his absence from his said service; and in every such case where any dispute arises between such servant

and his master or employer touching any money due to such servant on account of service performed before his departure from service, by reason of the embodiment of the militia in which he is enlisted, or touching any abatement to be made by such servant by reason of his absence for preliminary training or training and exercise, and the sum in question does not exceed the sum of twenty pounds, the same may be determined as follows:—

In England or Ireland, any justice for the county or place where such master or employer is resident may hear and determine the dispute in a summary way, and make such order for the payment of so much wages to such servant as, having regard to the service he has performed, or the duration of his absence from his service (as the case may require) may to such justice seem just and reasonable:

In Scotland, the sheriff of the county or any two or more justices for the county or place where such master or employer is resident may hear and determine the dispute in a summary way in like manner as if the sum claimed were within the amount to which their jurisdiction under the acts for the recovery of small debts respectively for the time being extends, and grant warrant for the recovery of the sum decerned for by poinding and sale in common form (*t*)."

(*t*) It would be idle to attempt to anticipate the numerous questions that may arise under this curious

clause, not only with regard to the Employers and Workmen Act, 1875, but apart from it.





# INDEX.

## A.

- ABATEMENT OF WAGES, former power as to, 5, 19.  
advantages and disadvantages of, 11.  
“apportionment,” substituted term in Employers and Workmen Act, 1875..165.
- ABETTERS, in indictable misdemeanors and in offences punishable on summary conviction may be proceeded against, 267, 268.
- ABSCONDING APPRENTICES. *See* APPRENTICE.
- ABSENTING FROM SERVICE, summons or warrant for, prior to 1867..5.  
must have been wilful to constitute offence before 1867..6.  
no longer an offence, but a civil breach of contract, 80, 92.
- ACTION, claim under Employers and Workmen Act, so called in Lord Chancellor’s rules, 175.  
particulars of cause of, required, 123, 175.
- ADJOURNMENT, powers of courts of summary jurisdiction as to, 128.  
where complainant does not appear, 131.  
where defendant does not appear, 130.  
in cases of variance between summons and evidence, 128.
- ADJUSTMENT OF CLAIMS, by courts of summary jurisdiction, 131.
- ADMISSIBILITY OF PARTIES AS WITNESSES, 99, 100.  
*See* WITNESSES.
- AFFIDAVIT, proof of service of summons out of district by, 126.
- AGENTS, power to summon, instead of master, before Act of 1867..4.  
continued by that act, 83.  
power no longer exists under Labour Laws 1875..83.  
effect of want of power, 84.  
in part met by extended power of service of summons, 84.  
forcing, to alter mode of carrying on business, 32.
- AGGRAVATED CASES, of breach of contract, recommendation of committee of House of Commons, 1866, as to dealing with, 15, 16.  
provisions of Act of 1867 as to, 19, 20.  
powers misconstrued and abused, 25.  
illustrations of cases of, 21.  
report of Royal Commission as to, 56 *et seq.*  
difference of opinion among commissioners as to mode of dealing with, 59, 60.  
all agreed that some distinction between simple breaches and aggravated cases should be kept up, 79, 93.  
right of trial by jury for, recommended, 61.  
action of legislature in 1875 as to, 93, 94, 95.

- AGREEMENT, written, formerly required to enforce contract by summary proceedings where service not entered on, no longer necessary, 5.  
 agreement for hire of labourer, artificer, &c. exempt from stamp, 117.  
 constituting conspiracy, 44.  
 exclusion of certain agreements as to, by Conspiracy and Protection of Property Act, 1875..101, 192.
- AIDERS AND ABETTERS in offences punishable on summary conviction or on indictment, 267, 268.
- ALDERMAN of city of London, jurisdiction of, under Labour Laws, 1875..171, 198.
- ANNULLING CONTRACT, power of, in repealed Act of 1867..19.  
 "rescinding" substituted in Employers and Workmen Act, 1875..165.
- APPEAL to quarter sessions from conviction for aggravated offence under former Act of 1867..20.  
 under Conspiracy and Protection of Property Act, 1875..163.  
 case for opinion of superior court under Employers and Workmen Act, 146.  
 under Conspiracy, &c. Act, 163.
- APPEARANCE OF PARTIES on hearing under Employers and Workmen Act, 1875..129.  
 proceedings in default of appearance by defendant, 130.  
 where plaintiff does not appear, 131.  
 either party may appear by solicitor, 130, 131.
- APPORTIONMENT of wages under Employers and Workmen Act, 1875..165.  
 under repealed Act of 1867..19.  
 of fine under repealed Act of 1867..19.
- APPRENTICES, summary remedy by, against master before Act of 1867..5.  
 summary remedy against, by master before Act of 1867..5.  
 application of powers of imprisonment under that act, 84.  
 satisfactory provisions of Act of 1875..84.  
 procedure with regard to, 150.  
 may be apprehended on warrant for nonappearance, 130, 169.  
 confined to certain classes of apprentices, 150.  
 apprentices to sea service expressly excluded, 176.  
 doubtful effect of repeal of acts on ordinary contracts of apprentices, 151, n.  
 order on, to perform his duties, 151.  
 enforcement of order, 152.  
 imprisonment, 152.  
 parent or guardian may be summoned, 152.  
 order on, 153.  
 security by, 153.  
 transfer of indentures on bankruptcy of master, 282.  
 neglect of master to provide with necessaries, 276.  
 extension of law, 95, 96, 154, 194, 195.  
 combinations to force manufacturers to limit number of, formerly unlawful, 36.  
 effect of enlistment in army or marines, 294, 298.
- ARBITRATION of disputes between employers and workmen, 232, 247, 281, 283.
- ARMY, effect of servant or apprentice enlisting in, 294.



- ARREST of wages in Scotland, 13, 14.  
 abolition of, in payment of fines recommended by committee of House of Commons, 1866..16.  
 liability to, limited, 282.  
*See* WARRANTS.
- ARTIFICERS, legislation directed to, 3.  
 included in Act of 1867..18.  
 included in "workman" in Act of 1875..110.
- ASSAULTS ON SEAMEN, &c. 276.
- ASSESSMENT OF COMPENSATION OR DAMAGES under repealed Act of 1867..19.  
*See* DAMAGES.
- ASSOCIATION OF WORKMEN, after act 5 Geo. 4, c. 95..32, 33.  
 former legislation in respect of violence, &c., to coerce master or workman to belong or not to belong to any, 40.  
 or to pay fine or penalty enforced by, 40.  
 present provisions affecting, 155, 158, 282.
- ATTACHMENT OF WAGES prohibited in inferior courts, 282.
- ATTENDANCE OF PARTIES on hearing, 130, 131.
- ATTENDANCE OF WITNESSES, summons for, 126, 127.
- ATTORNEY, answer and defence by, provided for by Summary Jurisdiction Act, 128.  
 appearance of complainant by, 131.  
 defendant may appear by, as process civil, personal attendance cannot be enforced, 130.  
 costs of, to what amount may be ordered at discretion of court, 178.
- AWARD OF DAMAGES under Employers and Workmen Act, 1875..134.

## B.

- BAILEES, fraudulent, punishment of, 268.  
 not to apply to cases punishable on summary conviction, 268.
- BANKRUPTCY of master, payment of wages in the event of, 281.  
 transfer by trustee of indentures of apprenticeship, 282.
- BARGEMEN, on Thames, recovery of wages by, 248.
- BESSETTING house or place, molesting by, offence under repealed Criminal Law Amendment Act, 1871..41.  
 substituted provision in Conspiracy and Protection of Property Act, 1875..155.
- "BLACK LISTS" of masters, alluded to in report of Royal Commission on Labour Laws, 70.
- BONA FIDE DISPUTES, distinction between and wilful act, 6, n.  
 distinction no longer exists, except in case of certain malicious acts, 92.  
*See* WILFUL.
- BOND, security by, for performance of contract under Act of 1867..19.  
 undertaking substituted for by Employers and Workmen Act, 1875..168.
- "BONDSMAN" for good conduct of apprentice, 167.  
 form of application for summons to, 189.  
 form of summons, 190.  
 order on, 167, 168.  
 form, 190.

BREACH OF CONTRACT. *See* CONTRACT.

BREACH OF THE PEACE, law relating to, not affected by sect. 3 of Conspiracy and Protection of Property Act, 1875..192.

BUSINESS, violence, coercion, &c., to compel alteration in mode of carrying on, offence against combination laws, 32, 36, 40.  
present general provisions in relation to, 96, 192, 195.

### C.

CALICO PRINTER, designer for, an artificer, 115, n.

CAPACITY to contract essential to validity, 118.  
married women, 118.  
infants, 119.

CASE for opinion of superior court, power of court of summary jurisdiction to state, under Employers and Workmen Act, 1875..146.  
under Conspiracy and Protection of Property Act, 1875..163.

CAUSE OF ACTION, particulars of, to be given on entry of plaint, 123, 175.  
suggested forms of, 124.

CERTIFICATE for discharge of prisoner from custody under Debtors Act, 178.  
form of, 183.  
of character of servants, punishment for false, 231.

CHANCELLOR. *See* LORD CHANCELLOR, *and* RULES.

CHARACTER of servants, punishment for false, 231.

CHILDREN, violence or intimidation to, with view to unlawfully compelling parent, 155.

CHIMNEY SWEEPERS' ACTS, general scope and object of provisions in, 4.

CITY OF LONDON, constitution of court of summary jurisdiction in, 171, 198.

CIVIL ACTION at common law for breaches of contract, 1, 105.

CIVIL BREACHES of contract distinguished from criminal offences, 52, 59.  
completely separated by legislation of 1875..80.

CIVIL JURISDICTION, court of summary jurisdiction under Employers and Workmen Act, 1875, deemed to be a court of civil jurisdiction, 107, 166.

CLAIM, "dispute" treated as, by Chancellor's rules, 121, 122.

CLAIMS, power of courts of summary jurisdiction to adjust and set off, 131.

CLERK OF THE COURT OF SUMMARY JURISDICTION,

entry of plaint by, 122, 123.

the clerk to the magistrates of the petty sessional division or district, generally the clerk of the court, 122, 175.

clerk to keep book, 123, 175.

form of plaint book, 191.

to issue summons, 125.

power given to, in forms, to sign summonses authorized by magistrates, 125.

suggestion as to effect, 125, 126.

clerk's fees, 191.

duties of, on commitments under Conspiracy and Protection of Property Act, 162, 163.

- CLOCKS AND WATCHES, existing legislation relating to employers and employed in the manufacture of, 217.
- CLOTHES, molestation by hiding, offence under repealed Criminal Law Amendment Act, 1871..41.  
hiding, an offence under Conspiracy and Protection of Property Act, 1875..155.
- CLOTHING, punishment of master for not providing servant or apprentice with, 154, 276.
- COAL, false stacking of, 231.
- COAL MINES ACT, general object of, 3, 4.  
payment of wages not to be at public house, 285.  
when amount of wages depends on amount of minerals gotten, payment to be according to weight, 286.  
provision for deductions, 286.  
appointment of check weights, 286.  
inspection of mine by persons employed, 288.  
special rules, 289.
- COERCE, COERCING, COERCION, certain acts done with a view to coerce another, forbidden by Criminal Law Amendment Act, 1871..40.  
acts in restraint of trade not punishable under act, unless done with the object of coercing, 41.  
objection by trades unions to interpretation of words, 42.  
coercion by trades unions, 68.  
word "coerce" abandoned in legislation of 1875..96.
- COLLIER, case of, where personal service inferred, 113, n.  
implied agreement to find work, 118.
- COLLIERS, fraudulent stacking by, 231.
- COMBINATION, general right of workmen to combine, 63, 65.  
limits of right, 64, 72.  
violence in, to coerce master or workman to belong or not to belong to any, 40.  
or to pay fine imposed by, 40.  
law of conspiracy applied to trade, 44, 48.  
combinations amounting to conspiracy described, 74, 75.  
provision of Conspiracy and Protection of Property Act, 1875, as to, 192.
- COMBINATION LAWS, series of statutes known as, 29, 30.  
combination at common law, 28.  
mistaken policy of, 30.  
repeal of prior acts by 5 Geo. 4, c. 95..31.  
provisions of that act, 31, 32.  
effect of act, 32, 33.  
appointment of select committee of House of Commons on, 33.  
report, 33.  
act 6 Geo. 4, c. 129, result, 35.  
provisions of that act, 35, 36.  
growth of trade unions, 36.  
outrages at Sheffield and Manchester, 36.  
commission of 1867..37.  
conflicting reports, 37.  
acts of 1871 amending laws as to trade unions, and Criminal Law Amendment Act, and results, 38, 39.  
complaints of acts by trade unions, 42.  
report of Royal Commission on Labour Laws as to, 63.



COMBINATION LAWS—*continued*.

repeal of Criminal Law Amendment Act, and substituted provisions,  
96.

## COMMISSION OF 1867, to inquire on organization of trades unions, 37.

extract from, 65—67.

conflicting reports of, 37.

commission, appointment of, 1874, to inquire into working of Master and Servant Act, 1867, Criminal Law Amendment Acts, and Conspiracy, 49.

proceedings of commission, 49.

report, 49—79.

as to Master and Servant Act, 1867.. 51.

Criminal Law Amendment Act, 1871.. 62.

law of conspiracy, 73.

adoption of report in part by the government, 80.

deviations in bills and alterations before passing, examined, 80—  
104.

COMMITMENT. *See* WARRANT OF COMMITMENT.

COMMITTAL for trial where defendant objects to summary jurisdiction under Conspiracy and Protection of Property Act, 162.

COMMITTEE OF HOUSE OF COMMONS on master and servant law, appointment of, 1865.. 15.

report of 1866.. 15.

on combination laws at instance of Mr. Huskisson, 33.

COMMON LAW, remedy for breaches of contract at, 1.

right to combine at, 28, 29.

6 Geo. 4, c. 129, declaratory of, as to offence, in opinion of Sir William Erle, 36, n.

COMPELLING PERFORMANCE OF CONTRACTS. *See* PERFORMANCE.

COMPELLING PERSONS WRONGFULLY, certain acts done with view to, punishable, 155.

COMPENSATION for breaches of contract, introduced as a remedy by Act of 1867.. 19.

COMPETENCY OF PARTIES AS WITNESSES, 100, 101.

distinction between masters and servants prior to 1867.. 10.

recommendation to committee of House of Commons on, 17, n.

report of committee as to, 16.

action of legislature in 1867.. 21.

suggested distinction between competency and compellability, 100, n.

great extension of law in Conspiracy and Protection of Property Act, 1875.. 100.

account of changes, 99, n.

comments on, 101.

parties competent under Employers and Workmen Act, 1875, without express provision, 127.

express provisions in Conspiracy and Protection of Property Act, 1875 .. 160, 197.

COMMITMENT under Debtors Act, 1862, on judgment summons, 142.

rules as to, 177.

form of order, 182.

warrant of, for trial, on defendant's objecting to jurisdiction, 162.

- COMPLAINT, proceeding by, and summary, under Act of 1867..18.  
 no written complaint requisite under Employers and Workmen Act, 1875..123.  
 entry in plaint book constitutes complaint to satisfy Summary Jurisdiction Act, 123, n.
- CONCILIATION, COUNCILS OF, to adjust differences between masters and workmen, 281.
- CONCURRENT JURISDICTION of two ordinary justices and of stipendiary magistrates under Act of 1867 taken away by Labour Laws of 1875 ..108.  
 of county courts and courts of summary jurisdiction under Employers and Workmen Act, 1875..81.
- CONSPIRACY, law of, in relation to employer and employed previous to 1875-44.  
 definition of conspiracy, 44.  
 three classes, 46.  
 reports of commissioners on Criminal Law, 44.  
 New York Criminal Code commissioners, 44.  
 Statute of New York, 48.  
 application of law to employer and employed, 44, 45.  
 objections to law, 45.  
 provision in Trade Union Act, 1871..282.  
 report of Royal Commission (1874-5) on, 49, 73.  
 how offence dealt with in legislation of 1875..101, 192.
- CONSPIRACY AND PROTECTION OF PROPERTY ACT, 1875..192.  
 progress of the bill through parliament and review of the provisions and amendments introduced, 80, 92-103.  
 procedure under the act, 154-163.
- CONSTABLE, process served by, as officers of courts of summary jurisdiction, 126, 175, 176.
- "CONTRACT" in Employers and Workmen Act, 1875.  
 term used in aid of definition of workman, 170.  
 workman who has entered into a "contract of service," or a "contract personally to execute any work or labour," 111, 170.  
 need not be to serve or work exclusively for one employer, 113.  
 need not subsist at time proceedings taken, 114.
- CONTRACT OF SERVICE, definition of, in Act of 1867..18.  
 cases as to, under former law, 113, 115 in note.
- CONTRACTS, remedy for breaches of contracts of service at common law, 1.  
 early legislation respecting, 1, 2.  
 what classes of, within present inquiry, 2, 3.  
 of persons employed by State not included, 3.  
 enforcement of, for manual services on public grounds, 3, 4.  
 state of legislation for enforcement of, immediately before Act of 1867..4.  
 distinction between wrongful and wilful breaches of, 6, 16, n.  
 when written necessary, 5.  
 discharge from, 5.  
 not an effectual remedy, 10, 11.  
 suggestion as to compelling performance of, 16, n.  
 recommendation of committee of House of Commons as to, 15.  
 provisions of Act of 1867 as to, 19.  
 interference with, forbidden by Combination Act, 5 Geo. 4, c. 95.. 31, 32.

**CONTRACTS**—*continued*.

- report of Royal Commission as to mode of dealing with breaches of, 52.
- simple breach recommended to be divested of all character of criminality, 55.
- power to order performance of, recommended, 88.
- suggestion that written should be required, disapproved of, 61, 62.
- contracts of service and contracts to execute work or labour within Employers and Workmen Act, 1875.. 111, 170.
- service need not have been entered on or work performed, 116.
- must be a valid contract in law, 116.
- and in writing if required by Statute of Frauds, 116.
- mutuality of, 117, 118.
- capacity to contract, 118.
- married women, 118.
- infants, 118.

**CONVICTIONS**, distinction between, and "orders," on admissibility of parties as witnesses, 10.

**CORN**, appropriation of, by servants to feed horses, formerly a felony, 3.  
summary punishment substituted, 279.

**COSTS**, power to order, prior to Act of 1867.. 4.  
power under Act of 1867.. 19.  
under Employers and Workmen Act, 1875.. 133.  
provisions of Summary Jurisdiction Act applied to, 133.  
Lord Chancellor empowered to make rules as to, 133, 169, 170.  
on dismissal of complaint, 133.  
enforcement of, 133.  
to complainant, 133.  
of solicitor, 134, 178.  
to defendant where plaintiff does not appear, 131, 176.  
of enforcing orders, 178.  
to be paid in first instance by party seeking assistance of court, 178.  
schedule of, 191.  
of prosecution under Conspiracy and Protection of Property Act, 1875,  
not allowed, 99, 162.  
avoidance of costs of summary conviction by objecting to jurisdiction,  
103, n.

**COTTON MANUFACTURE**, existing legislation relating to employers and workmen in, 209, 211, 215, 221, 224, 249, 250.

**COUNCILS OF CONCILIATION**, to adjust differences between masters and workmen, 281.

**COUNSEL**, answer and defence by, expressly secured by Summary Jurisdiction Act, 128.  
appearance of complainant by, 131.

**COUNTERFEIT CERTIFICATE**, of servants' characters, punishment for, 231.

**COUNTY COURTS**, suggested transfer of jurisdiction from justices to, considered, 60.  
objections to, 60.  
enlarged powers given to, by Employers and Workmen Act, 1875.. 105, 164.  
courts of summary jurisdiction have powers of, conferred by that act.. 131.



COURTS OF PETTY SESSIONS, made public by Jervis' Acts, for offences punishable on summary conviction, 10.  
constituted courts of summary jurisdiction under Labour Laws, 1875.. 107, 159.

*See* COURTS OF SUMMARY JURISDICTION.

COURTS OF SUMMARY JURISDICTION, established by legislation of 1875.. 105.

under Employers and Workmen Act, 1875.. 105.

under Conspiracy and Protection of Property Act, 1875.. 159.

constitution of courts, 107.

in city of London, 107.

in metropolitan police court division, 107.

in city, town, &c. where stipendiary magistrate appointed, 107.

elsewhere, 108.

petty sessional division, 109.

civil jurisdiction of, as to persons and things under Employers and Workmen Act, 110.

apprentices, 150.

rules for carrying jurisdiction into effect, 109.

process of courts, 122.

proceedings in, on hearing cases, 127.

courts open to the public, 128.

enforcement of orders of, 140.

criminal jurisdiction under Conspiracy and Protection of Property Act, 159.

description of offences, 154.

objection by defendants to jurisdiction, 161.

appeal, 163.

CRIME, legislation for prevention of, beyond scope of ordinary labour laws, 3.

question of how far character of criminality attaches to offences by workmen, considered by Labour Laws Commission, 53 *et seq.*

CRIMINAL LAW AMENDMENT ACT, 1871, 39, n.

provisions of, 40.

distaste of workmen and trade unions for, 28, 42.

approval of, by employers, 43.

Report of Royal Commission on, 1874-5.. 49, 62.

objections to, by trade unions stated, 62, 72.

objections reported to be of a very shadowy and unsubstantial character, 69.

government bills of 1875 left act unrepealed, 96.

eventually repealed, 96, 200, 201.

substituted provisions, 96, 101, 155, 195.

CROSS, MR., Secretary of State, introduction of Labour Laws, 1875, into House of Commons, by, 80.

## D.

DAMAGES, for breach of contract at common law, 1.

assessment of, under Act of 1867.. 19.

award of, under Employers and Workmen Act, 1875.. 134.

adjustment and set-off of, 134.

whether liquidated or unliquidated, 131.

legal principles respecting, 134.

**DAMAGES—continued.**

- must be direct consequence of breach, 134.
- illustrations, 135.
- measure of damages on dismissal of servant, 136.
- distinction between liquidated; or penalty, 139.

**DEBTORS ACT**, 1869, provisions of, as to commitment under, applied to orders for money by court of summary jurisdiction, 81, 142.  
prescribed rules under, 143, 177.

**DEFECTS**, in summons, in substance or form, provided for, 128.

**DEFENDANT**, service of summons on, 126.

- appearance of, on hearing, 129.
- no warrant to issue for non-appearance under Employers and Workmen Act, 1875..130.
- procedure in his absence, 130.
- objection by, to jurisdiction under Conspiracy and Protection of Property Act, 161.

*See further*, **PROCEDURE**.

- competent witnesses in cases of orders under Jervis' Acts, 10.
- under Master and Servant Act, 1867..21.
- under Conspiracy and Protection of Property Act, 1875..100.

*See* **COMPETENCY OF PARTIES AS WITNESSES**.

**DISCHARGE** from contract, impracticable in general as a remedy, 10, 11.  
from custody under an order of commitment, rules as to, 177, 178.  
form of certificate for, 183.

**DISMISSAL** of servants for misconduct, right of, not interfered with, 21.  
measures of damages recoverable for dismissal, 136.  
violence or threats, &c. to coerce masters to dismiss workmen, 40.  
of complaints, 129.  
where complainant does not appear, 131.  
costs on, 131, 133.

**"DISPUTES"** between employer and workman, jurisdiction confined to, under Employers and Workmen Act, 1875..121.  
meaning of word, 121.  
should be read as "claim," 121.  
power of the court as to, on hearing, 131.

**DISRAELI, MR.**, his observations on the Labour Laws of 1875..103, 104.

**DISTRESS**, warrant of, against goods, under order for payment of money, 140.  
forms, 184, 185.  
former enforcement of order for wages by, 4, 5.  
imprisonment of master in default of, 4, 5.  
enforcement of fine by, recommendation of committee of House of Commons as to, 15.  
enforcement of order for payment of money by, under repealed Act of 1867..20.

**DISTRICT**, in which to enter plaint and issue summons, 122, 175.  
observations on rules, 123.  
service of summons out of, 122, 175, 176.

**DIVISIONAL COURTS OF PETTY SESSIONS** constitute courts of summary jurisdiction under Employer and Workmen Act, 1875..109.  
not courts of record, 109.

- DOMESTIC SERVANTS, only incidentally referred to in this work, 2, 3.  
 legislation generally excluded, 4.  
     and still excludes under Employers and Workmen Act, 1875..  
     111.  
     but not excluded from Conspiracy and Protection of Property  
     Act, 1875.. 97, 158.  
 Truck Act does not extend to, 240.
- DUTIES, enforcement of, by apprentice, 151.
- DYERS, journeymen, frauds by, 224.

## E.

- EDUCATION, legislation affecting employer and employed, to promote and  
 enforce, 3, 281.
- EFFECT OF ORDERS of court of summary jurisdiction, 145.  
     on subsisting contract, 147.  
     on proceedings in other courts, 149.
- ELCHO, LORD, his Master and Servant Act, 15, 18.  
     chairman of select committee of House of Commons, 15.  
     bill introduced by, 18.  
     *See* MASTER AND SERVANT ACT, 1867.
- EMBEZZLEMENT, crime of, 270.  
     [*See also various statutes in the Appendix, pp. 209—232, as to the  
     making away with work and materials.*]
- “EMPLOYER,” meaning of, in Employers and Workmen Act, 1875,  
     governed by “workmen” and “contract,” 110.  
     agent or representative of, cannot be sued for wages, 83.
- “EMPLOYERS AND WORKMEN” substituted for “masters and servants”  
     in legislation of 1875.. 110, 164.  
     law of conspiracy in relation to, 44.
- EMPLOYERS AND WORKMEN ACT, 1875.. 164.  
     bill brought into House of Commons by the Government, 80.  
     review of the provisions and alterations in progress of bill through  
     parliament, 80—92.  
     procedure under act, 105—153.  
     Lord Chancellor’s rules under act, 175.
- EMPLOYMENT, coercion by violence, threats or intimidation, &c. to quit or  
     not accept, 40.
- ENFORCEMENT OF CONTRACTS, former legislation respecting, 1.  
     under Act of 1867.. 86.  
     report of Royal Commission as to, 87, 88.  
     recommendation not fully acted on by legislation of 1875.. 91.  
     *See* PERFORMANCE and SPECIFIC PERFORMANCE.
- ENFORCEMENT OF ORDERS, under Employers and Workmen Act, 1875..  
     140.  
     of orders for payment of money, 140.  
     as ordinary debts, 140.  
     of undertaking for performance, 144.  
     of order for performance of duties by apprentice, 152.
- ENFORCEMENT OF WORK by former legislation, 1.  
     of price of work, 1.



- ENTRY OF PLAINT, under Employers and Workmen Act, 1875..122.  
rule as to, 175.
- ERLE, SIR WILLIAM, his statement of common law as to trade combinations, 28, 29.  
opinion of, as to operation of 6 Geo. 4, c. 129..36, n.
- EVIDENCE. *See also* WITNESS.  
committee of House of Commons declined to recommend departure from existing rules of, 16.  
minutes of, on Royal Commission on Labour Laws, referred to *passim*.  
on master and servant law committee, *passim*.
- EXCLUSIVE JURISDICTION, county courts and courts of summary jurisdiction practically exclusive under Employers and Workmen Act, 1875..  
105, n.  
of police and stipendiary magistrates under Labour Laws of 1875..  
107, 108.
- EXECUTION against goods and chattels to enforce orders of court of summary jurisdiction, 140.  
exception of wearing apparel, bedding and tools, 140.  
form of warrant of distress for payment by plaintiff, 184.  
for payment by defendant, 185.  
costs of, 191.
- EXPLOSIVE SUBSTANCES, provisions as to workmen engaged in manufacturing, 294.

## F.

- FACTORIES, labour in, 260.
- FACTORY ACTS, illustrations of legislation affecting labour contracts on public grounds, 3, 4.  
provisions of, as to fencing machinery, 261.  
question as to whether claims for damages for not properly fencing constitute disputes under Employers and Workmen Act, 1875..260.  
cases of claims under Factory Acts, 263, 264, 265.  
power of deduction of fines from young persons within Factory Acts, limited, 171.
- FEES of clerk of court of summary jurisdiction, 191.
- FELONY, felonious act excludes civil remedy until prosecution, 121.
- FENCING MACHINERY, legislative provisions respecting, 261.  
general object of, 4.  
cases decided in relation to, 261—265.
- FINE, no power to inflict before Act of 1867, recommendation of committee of House of Commons, 1866, as to, 15, 16.  
provisions of Act of 1867 as to, 19.  
mode of applying that act by, in metropolitan police district, 23.  
objection by workmen to, power to fine given by Master and Servant Act, 1867, considered, 52.  
no power to fine under Employers and Workmen Act, 1875..131.  
power to, instead of imprisonment for offences substituted for Criminal Law Amendment Act, 97.  
coercion to master or workman to pay fine or penalty imposed by association or combination, 40.

- FINES**, deduction of, from wages, 246.  
     effect of Truck Act as to, 246.  
     subsequent legislation as to hosiery trade does not prohibit stoppage, 293.  
     provision as to, in Employers and Workmen Act, 1875, in the case of children, young persons and women in factories, 171.
- FLAX MANUFACTURE**, existing legislation relating to employers and employed in, 215, 221, 224, 250.
- FOLLOWING PERSON** from place to place with view to coercion, offence under Criminal Law Amendment Act, 41.  
     substituted provision in Conspiracy and Protection of Property Act, 1875..155.
- FOOD**, punishment of master not providing servant or apprentice with, 96, 154, 276.  
     misappropriation of, by servant, to feed master's horses or other animals, 278.
- FORCE**, provisions of combination laws against, 32, 35, 36.
- FORCE AND EFFECT OF ORDERS** of court of summary jurisdiction under Employers and Workmen Act, 1875..145.
- FOREMAN**, a servant, 115, 116, n.  
     former power to summon for wages, 4.  
     power gone, 83.  
     using force to, to compel alteration in mode of carrying on business, 32.
- FORM**, defects in (or in substance) in summons, not a ground of objection, 128.
- FORMS** of procedure under Employers and Workmen Act, 1875, attached to rules, 179—191.
- FRAUDULENT** misappropriation of articles and materials of manufacture, legislation respecting, 3, n. *See* APPENDIX.
- FRAUDS**, Statute of, must be complied with in contract between employers and workmen, 116.
- FULFILMENT OF CONTRACT.** *See* PERFORMANCE.
- FUR MANUFACTURE**, existing legislation relating to employers and employed in, 215, 221, 224.
- FUSTIAN MANUFACTURE**, existing legislation relating to employers and workmen in, 209, 211, 215, 221, 224.

## G.

- GAS**, wilful and malicious breach of contract with authority or company having duty to supply, 154, 193.  
     authority or company to post up provision of act as to, 157.
- GASES**, deleterious, legislation to prevent, noticed, 3.

- GOODS, execution against, under order for payment of money, 140. *See*  
 EXECUTION.  
     payment of wages in goods, prohibited by Truck Act, 233.  
     stealing, in process of manufacture, 269.  
     penalty on workman in Ireland making away with, 278.
- GUNPOWDER, provisions as to workmen in manufacture of, 294.

## II.

HANDICRAFTSMAN, included in "Workman," 111.

"HAND-WORKERS," expression used by Mr. Rupert Kettle to define class of persons to whom legislation between employer and employed extends, 111, n.

HARD LABOUR, power to impose taken away by Act of 1867 except for aggravated cases, 20.

HATS, existing legislation relating to employers and employed in the manufacture of, 221, 223, 224.

HEALTH, legislation enforcing duties on the ground of, 3.

HEARING of "disputes" under Employers and Workmen Act, 1875, proceedings on, 127.  
     parties competent witnesses, 127.  
     appearance by attorneys and counsel, 128.  
     court open to the public, 128.  
     adjournment, 128.  
     defects and variances, 128.  
     proceedings where both parties appear, 129.  
     where defendant does not appear, 130.  
     where the plaintiff does not appear, 131.  
     orders of the court, 131.  
     of charges under Conspiracy and Protection of Property Act, 1875..  
         160, 161.  
     where defendant objects to summary jurisdiction, 161, 162.

HEMPEN MANUFACTURE, existing legislation relating to employers and workmen in, 211, 215, 221, 224, 247, 249.

HIDING TOOLS, molesting by, offence under repealed Criminal Law Amendment Act, 1871..41.  
     an offence under Conspiracy and Protection of Property Act, 1875..  
         155.

HIRING AND SERVICE, varieties of contract of, 2.  
     combinations to prevent, unlawful, 35.

HOSIERY MANUFACTURE, existing legislation relating to employers and employed in, 229, 250, 265.  
     payment of wages in, without deduction (Hosiery Manufacture (Wages) Act, 1874)..293.

HOUSE, watching or besetting, molesting by, offence of, 155.  
     offence under previous Act of 1871..41.



HOUSE OF COMMONS, select committee of, on master and servant in 1865..  
15.  
re-appointed in 1866..15.  
report, 15.  
select committee of, on Combination Laws, 33.  
report, 33.

HUSBAND AND WIFE made competent witnesses by Act of 1867..21.  
admissibility further extended by legislation of 1875..99, 100.  
*See* WITNESSES.

HUSBANDRY, servants in, within scope of legislation, 3.  
power to summon master for wages before Act of 1867..4.  
expressly included in definition of "workmen" in Employers and  
Workmen Act, 1875..110.  
Truck Act does not extend to, 240.  
female servant may be, 115, n.  
case commented on, *ib*.  
Agricultural Gangs Act. *See* 281.

HUSKISSON, MR., motion for committee on Combination Laws, 33.

I.

ILLTREATMENT of apprentice, remedy against master for, before Act of  
1867..5.  
term used in repealed Act of 1867..18.  
*See* APPRENTICE and MASTER.

IMPRISONMENT, power of, before Act of 1867..4.  
masters liable to, for nonpayment of wages ordered by magis-  
trate, 4.  
servants, direct liability of, to, 5.  
apprentices, liability of, to, 5.  
supposed inequality of the law respecting, prior to 1867..7.  
question examined, 6—10.  
effect of, general abolition of, for debt, 9.  
recommendation of committee of House of Commons as to, in default  
of payment of fine, 15.  
as to direct, in aggravated cases, 15, 16.  
provisions of Act of 1867 as to, 20, 21.  
object of act to get rid of direct imprisonment for simple breaches, 22.  
defect of act as to, 22.  
abuse of power as to, 25.  
in the case of apprentices, 84.  
report of Royal Commission on Labour Laws as to power of, 52—60.  
to enforce performance, objections to, considered, 88, 90.  
under Employers and Workmen Act, 1875, imprisonment con-  
fined to enforce payment of money orders, under Debtors Act,  
142, 169.  
and limited imprisonment of apprentice for disobeying order for  
performance of duty, 167.  
procedure for that purpose, 177.  
for limited period on proof of means, 144.

IMPRISONMENT under Conspiracy and Protection of Property Act, 1875  
..193—195.

- INDICTMENT, procedure with view to, on defendant's objection to summary jurisdiction under Conspiracy and Protection of Property Act, 1875..161, 162.
- INEQUALITY OF LAW as regards master and servant, supposed former, 7.  
question discussed, 7—10.  
popular view as to, in Scotland, 13, n.  
observations of Royal Commission as to, 52, 56 *et seq.*
- INFANTS, contracts by, 119.  
general rule as to, 119.  
contracts of service beneficial, therefore generally binding, 120.  
illustrations, 120.  
exceptions, 120.
- INFORMATION, on oath, foundation of warrant of arrest, 5.  
power to issue before Act of 1867..5.  
under repealed Act of 1867..18.  
for offences under Conspiracy and Protection of Property Act, 1875..160.
- INJURY to person or property, subject matter of complaint under Act of 1867..18.  
constituted aggravated case, 21.
- INSTALMENTS, court of summary jurisdiction may order payment of money by, 132, 169.  
and on judgment summons under Debtors Act, 143.
- INTIMIDATION, punishment for, by 5 Geo. 4, c. 95..31.  
by 6 Geo. 4, c. 129..35.  
complaints of vagueness and uncertainty of term, 40, 42.  
term used in Criminal Law Amendment Act, 1871..40.  
by "picketing," 67.  
offence of, under Conspiracy and Protection of Property Act, 1875..155.
- IRELAND, application of Labour Laws, 1875, to, with modifications, 173, 174, 207, 208.  
former jurisdiction of justices in, 11.  
provisions of the Summary Jurisdiction Act of, relating to disputes between employers and employed, 265—267.  
summary jurisdiction in, for unlawful disposal of work by workmen, servants and apprentices, 278.
- IRON MANUFACTURE, existing legislation relating to employers and workmen in, 209, 211, 215, 221, 224.
- IRONSTONE, false stacking of ironstone and iron ore, 231. *See also* COAL MINES ACT *and* METALLIFEROUS MINES.

## J.

- JERVIS' ACT, 11 & 12 Vict. c. 43, applied to Labour Laws, 1875..170, 198.  
effect of, on 4 Geo. 4, c. 34..6, 7.  
made courts public, 10.
- "JOURNEYMAN," included in "workman," 110.
- JUDGMENT, order for plaintiff or defendant by court of summary jurisdiction, so termed by rules, 146, 176.  
forms of judgment for plaintiff and defendant, 180.

**JUDGMENT SUMMONS**, enforcement by, of orders of court of summary jurisdiction for payment of money, 142, 169.  
 provisions of Debtors' Act applied to, 142.  
 prescribed rules respecting, 177.  
 form of, 181.  
 service of, must be personal, 177.  
 hearing of, 177.  
 proof of means to pay, 144.

**JURISDICTION OF COUNTY COURTS** under Employers and Workmen Act, 1875..105, 106, 164.

**JURISDICTION OF JUSTICES** immediately before Act of 1867..4.

in Ireland, 11.

in Scotland, 12.

recommendation of committee of House of Commons, 1866, as to, 15.

jurisdiction of a single justice taken away by Act of 1867..22.

observations in Report of Royal Commission on Labour Laws on, 60, 61.

under Labour Laws of 1875, must for hearing and determining cases be in appointed petty sessions, 108, 109.

excluded in city of London police court divisions of the metropolis, and in places where stipendiary magistrates appointed, 107, 108, 159. *See* COURTS OF SUMMARY JURISDICTION.

**JURISDICTION OF LORD MAYOR AND ALDERMEN IN THE CITY OF LONDON** under Labour Laws, 1875..107, 171, 198.

**JURISDICTION OF METROPOLITAN POLICE MAGISTRATES** under Labour Laws, 1875..107, 171, 198, 199.

**JURISDICTION OF STIPENDIARY MAGISTRATES** under Labour Laws, 1875..107, 171, 199.

**JURISDICTION OF SUMMARY COURTS** under Labour Laws of 1875..171, 198.

under Employers and Workmen Act, 105, 107.

as to amount of claim in disputes, 106.

persons and things, 110.

employers, 110.

workmen, 110.

contract, 110.

apprentices, 150.

subject matter, 121.

under Conspiracy and Protection of Property Act, 159.

as to offences, 154.

punishment, 159.

power of defendants to object to jurisdiction, 161.

jurisdiction must be chosen in warrant of commitment, 162.

Lord Chancellor's rules for carrying into effect the jurisdiction given by Employers and Workmen Act, 1875..175.

**JURY**, trial by, recommendation of Labour Laws Commission as to, in aggravated cases, 61.

carried out by Labour Laws of 1875..98, 99.

defendant charged with offences under Conspiracy and Protection of Property Act, securing trial by jury by objecting to summary jurisdiction, 161.

probable use and effect of power, 103, n.



JUSTICES OF THE PEACE, summary remedy before, for breaches of contract from early period, 1.  
 jurisdiction of, immediately before Act of 1867..4—6.  
     in Ireland, 11.  
     in Scotland, 12.  
         sheriffs substitutes *ex officio*, 13.  
 effect of Act of 1867 on jurisdiction of, 22.  
 exclusion of justices interested in trade, 72.  
 jurisdiction of, under Labour Laws, 1875..171, 198.

## L.

LABOUR, contracts for, 2.  
 subject of work, 3.

LABOUR LAWS, history of, 1, 29.  
 impolicy of former combination laws, 30.  
 report of Royal Commission on, 49. *See* COMMISSION.  
 critical review of the legislation of 1875..80.  
     Employers and Workmen Act, 164.  
         procedure under, 105.  
         Chancellor's rules under, 175.  
     conspiracy and protection of property, 192.  
 unrepealed statutes relating to employers and workmen, 209.

LABOURERS, statutory legislation included, 3.  
 included in Act of 1867..18.  
 in Labour Laws, 1875..110. 170.  
 interference of Combination Laws with rights of, 29, 30.

LARCENY, various provisions indirectly affecting workmen, relating to, 268, 271.

LARCENY BY SERVANT, provisions respecting, 270.

LEATHER MANUFACTURE, existing legislation relating to employers and workmen in, 211, 215, 221, 224.

LEGISLATION respecting labour contracts, account of, from early period, 1.  
 various objects of, 3, 4. *See* APPENDIX OF STATUTES.

LICHFIELD, EARL OF, Bill of 1867 under care of, in House of Lords, 18.

LIMITATION OF JURISDICTION, of justices in amount of wages, before Act of 1867..4.  
 in apprenticeship cases, 5.  
 in cases of parish apprentices, 6.  
 in Ireland, 11.  
 under Act of 1867 limited by acts in schedule, 18.  
 of fine under Act of 1867..19.  
 of courts of summary jurisdiction under Labour Laws, 1875:  
     in "disputes," 106.  
     in apprenticeship cases, 150.  
     in amount of fine for offences, 159.

LINEN MANUFACTURE, existing legislation respecting employers and workmen in, 209, 211, 215, 221, 224, 247, 249, 250.

- LIQUIDATED DAMAGES, distinction between and penalty, 139.  
 liquidated and unliquidated may be adjusted and set off, 131.
- LODGING, neglect of master to provide, for servant or apprentice, 154, 276.
- LONDON, constitution of courts of summary jurisdiction in city of, 171, 198.
- LORD CHANCELLOR'S, THE, power to make rules under Employers and Workmen Act, 1875..109, 168, 169.  
 rules issued under this power, 175, 178.  
 forms attached to rules, 179.  
 schedule of costs, 191.
- LORD MAYOR of London, jurisdiction of, under Labour Laws, 1875..171, 198.

## M.

- MACHINERY, legislative provisions respecting fencing, 261.  
 general object of legislation, 4.
- MAGISTRATE. *See* JUSTICES, POLICE MAGISTRATE, *and* STIPENDIARY MAGISTRATE.
- MALICIOUS ACTS BY WORKMEN, forbidden by repealed combination laws, 32.  
 recommendation of Royal Commission that injury to person or property other than injury flowing simply from breach of contract should be left to ordinary law, 59, 93.  
 legislation of 1875 makes the maliciously breaking of contract a crime in certain cases, 93, 94.  
 meaning of "maliciously," 94, 155, 274.
- MALICIOUS INJURIES TO PROPERTY GENERALLY, 271—276.  
 destroying goods in process of manufacture, 271.  
 destroying machinery, 272.  
 malicious injuries to property above 5*l.* not otherwise provided for, 272.  
 wilful or malicious damage not otherwise provided for, 273.
- "MALICIOUSLY." *See* MALICIOUS INJURIES *and* ACTS, *supra*.
- MANAGERS, power to summon for wages, 4.  
 power gone, 83.
- MANCHESTER, Trade Union Outrages Act, 36, 66.
- MANUAL LABOUR, person engaged in, included in "workman" in Act of 1875..111, 112, *n*.
- MANUAL SERVICES, statutes enforcing performance of, on public grounds, 3, 4.
- MANUFACTURE, combinations to regulate mode of carrying on, unlawful, under act 5 Geo. 4, c. 95..32.  
 and under 6 Geo. 4, c. 129..36.  
 stealing goods in the process of, 269.
- MANUFACTURERS, legislation directed to, 3.  
 combination to force, to alter mode of carrying on business, 32, 36.

MARINES, enlistment in, effect of, on contracts of service, and apprenticeship, 297, 298.

MARRIED WOMEN, incapacity of, to contract for personal services, 118.  
not affected by Married Women's Property Act, 119.  
*See also* WIVES.

MASTER, former, right of servant to summon for wages, 4.  
warrant against, on default of appearance, 5.  
offences by and against under Criminal Law Amendment Act, 1871..40.  
substitution of "employer" for "master" in legislation of 1875..  
164, 192.  
former power of workman to sue agents, managers, and foremen for wages taken away, 83.  
of apprentice, proceedings by and against, under Employers and Workmen Act, 1875..84, 85, 150.  
neglect of, to provide necessities for servant or apprentice, punishment for, 96, 154, 276.  
civil liability of master to servant for negligence, 263, and note.  
for not fencing machinery, 261.

MASTER AND SERVANT, enforcement of duties between at common law, 1, 105.  
summary remedy by statute, 1, 105.  
varieties of service, 2.  
popular objections to former state of law of, 7.  
objections considered, 7—10.  
law of, reported by committee of House of Commons to be objectionable, 15.  
history of Act of 1867..15. *See* MASTER AND SERVANT ACT, 1867.  
law of conspiracy in relation to, 44.

MASTER AND SERVANT ACT, 1867..15.  
history of, 15.  
provisions of, 18—22.  
law previous to, 4.  
object of act, 18.  
effect of act, 18—22.  
defects, 22.  
abuse of power conferred by, 25.  
report of Royal Commission on, 49, 51.  
repeal of, 201.

MATERIALS OF MANUFACTURE, fraudulent misappropriation of, statutes respecting, 3, n.

MEASURE OF DAMAGES for breaches of contract of service, 135—139.

MEDICAL AID, punishment of master for neglecting to provide servant or apprentice with, when legally liable, 95, 154.

MENIAL SERVANT excluded from Employers and Workmen Act, 1875..  
111.  
but not excluded from Conspiracy and Protection of Property Act, 1875..97, 158.

METALLIFEROUS MINES ACT, general object of, 3, 4.  
wages not to be paid at public-house, 291.  
inspection of mine on behalf of workmen, 291.  
special rules in mines, 291.



- METROPOLITAN POLICE MAGISTRATES**, their mode of applying Act of 1867..23, 26.  
 jurisdiction of, under Labour Laws of 1875..171, 198.  
 jurisdiction as to recovery of wages on the river Thames under Police Courts Act..248.
- MILITIA**, enlistment of servants in, 298.
- MINERS** within scope of legislation, 3.  
 "miner" included in "workman" in Act of 1875..111.  
 fraudulent removal of ore by, 269.  
 false stacking of ironstone, 231. *See COAL MINES and METALLIFEROUS MINES.*
- MINES**, false stacking of coal, ironstone and iron ore, 231.  
*See COAL MINES and METALLIFEROUS MINES.*
- MINOR.** *See INFANT.*
- MISCONDUCT OF SERVANTS**, summons or warrant for, before Act of 1867..5.  
 of apprentices, 5.  
 term included in Act of 1867..18.
- MISDEMEANOR OF SERVANTS**, summons or warrant for, before act of 1867..5.  
 of apprentices, 5.  
 term included in Act of 1867..18.
- MISUSAGE**, term used in Act of 1867..18.
- MOHAIR MANUFACTURE**, existing legislation relating to employers and employed in, 215, 221, 224, 250.
- MOLESTATION**, forbidden by act 6 Geo. 4, c. 129..35.  
 complaints of vagueness and uncertainty of term, 40, 42.  
 certain acts of, defined by Criminal Law Amendment Act, 1871..41.  
 by "picketing," 67.  
 words "molest" and "coerce" got rid of by legislation of 1875..96.
- MONEY**, orders for payment of, how enforceable, 140.
- MUNICIPAL AUTHORITY**, definition of, 199.  
 in Scotland, 206.  
 in Ireland, 208.
- MUTINY ACTS**, provisions as to servants and apprentices enlisting in army or marines, 294—298.
- MUTUALITY OF CONTRACT** essential to validity, 117.  
 contracts held sufficient, 117.  
 contracts held insufficient for want of, 118.

## N.

- NECESSARIES**, contract for, by infant, 119.  
 criminal liability of master for not supplying to servant or apprentice, 154, 194, 276.
- NEW YORK Criminal Code Commissioners**, report of, on conspiracy, 44.  
 act of, as to indictable conspiracies in trade or commerce, 48.

NOTICE of set-off or counter-claim unnecessary, 127, 176.

NUISANCES, enforcing contracts to prevent, 3.

## O.

OATH, witnesses examined on, or declaration, 127.

OBJECTION by defendant to trial by court of summary jurisdiction, 161.

ought to be taken promptly, 161.

but circumstances to be considered, 161.

to summons for defects in substance or form not to avail, 128.

OBSTRUCTION, under Combination Act, 6 Geo. 4, c. 129, unlawful, 35.

objections to term as vague and uncertain, 40.

certain acts of, defined by Criminal Law Amendment Act, 1871..41.

OFFENCE by servant, what constituted, prior to Act of 1867..6.

distinction between offence and simple breach recognized by Act of 1867..18, 19.

distinction considered by Royal Commission on Labour Laws, 52—60.

action of the legislature thereon, 80, 93, 94.

offences under Conspiracy and Protection of Property Act, 1875, enumerated, 154, 155.

ORDER for performance of contract. *See* PERFORMANCE.

ORDERS, distinction between, and convictions under Jervis's Act, 10.

effect of, on admissibility of parties as witnesses, 10.

procedure by means of, introduced by Act of 1867..19.

ORDERS OF COURTS OF SUMMARY JURISDICTION UNDER THE EMPLOYERS AND WORKMEN ACT, 1875.

general power of the court as to, 131.

security for performance, 132.

orders for costs, 133.

award of damages, 135.

enforcement of orders, 140.

for payment of money, 140.

execution against goods, 140.

judgment summons, 142.

if undertaken for payment of money, 144.

force and effect of orders, 145.

on a subsisting contract, 147.

on proceedings in other courts, 149.

orders as to apprentices, 151.

enforcement of, 152.

forms of orders, 180—190.

ORE, fraudulent removal of, by miners, 269.

fraudulent stacking of, 231.

## P.

PARENT OF APPRENTICE, power to summon and make order against, if party to indentures, 153.

- PARISH APPRENTICES, former jurisdiction in case of, 6.  
present jurisdiction, 150, 151.
- PAROL CONTRACTS, in general sufficient, 61, 62.  
but governed by Statute of Frauds, 116.
- PARTICULARS OF CAUSE OF ACTION under Employers and Workmen Act, 1875..123.  
required by rules, 175.  
forms of particulars, 124, 125.
- PARTIES, examination of, as witnesses, 16. *See* WITNESS.  
appearance of, on hearing, under Employers and Workmen Act, 1875..  
129.  
power to summon and make orders on parties to indentures of apprenticeship, 153.
- PARTNERSHIP, share of profits by servant does not of itself constitute, 280.
- PEACE, binding over to keep, for threats or intimidation, under Criminal Law Amendment Act, 40.
- "PENALTY," damages liquidated, or distinction between, 139.
- PERFORMANCE OF CONTRACT, the thing desired by employer, and not damages, 24, n.  
the public a great interest in, 76.  
suggestion to Committee of House of Commons as to orders to return to work, 16, n.  
and as to security for performance, *ib.*  
recommendation of committee as to, 15.  
provisions of Act of 1867 as to, 19, 20.  
application of power, 23, 24.  
imprisonment for non-compliance with order for, 20.  
essential to power to order, 54.  
power to order recommended by report of Commission on Labour Laws, 91.  
imperfect legislation of 1875 as to, 91.  
consent of both parties to order requisite, 132.  
probable effect of, 102, note (*v*).  
form of undertaking for performance, 186.
- PERSISTENTLY FOLLOWING PERSON FROM PLACE TO PLACE, with a view to compelling course of action, an offence under Conspiracy and Protection of Property Act, 1875..155.
- PERSON, injuries to, subject of complaint under Act of 1867..18.  
constituted aggravated case, 21.
- PERSONAL EXECUTION OF WORK, contract for, by workman, within Employers and Workmen Act, 1875..111.  
cases of, referred to, 113, n.
- PERSONAL SAFETY, one object of legislation affecting employed, 4.
- PERSONAL SERVICE of judgment summons, 177.
- PERSONS, jurisdiction as to, under Employers and Workmen Act, 1875..  
110.  
employer, 110.  
workman, 110, 111.  
apprentices, 150.



- PERSUASION, as distinguished from intimidation, 72.
- PETTY SESSIONS, courts of, made public by Jervis's Acts in cases of summary conviction, 10.  
 divisional petty sessions constitute courts of summary jurisdiction under Employers and Workmen Act, 1875..109.
- "PICKETING," offence of, defined, 66.  
 objections by workmen to construction of Criminal Law Amendment Act, 1871, as to, 42.  
 employers, on the other hand, attributed cessation of offence to act, 43.  
 extract from Report of Trades Unions Commission on, 66, 67.  
 observations of Royal Commission on Labour Laws on, 69.  
 objection to word, removed, or intended to be removed, by legislation of 1875..96.  
 but still an offence if watching exceeds certain limits, 96.
- PICKETS. *See* PICKETING.
- PLACE for holding courts of summary jurisdiction, 107, 109.
- PLACE, &c., watching or besetting place of residence, work or business, 155.
- PLAINT to be entered in writing, in book, under Employers and Workmen Act, 1875..122.  
 rule respecting, 175.  
 clerk to keep book, 125, 175.  
 fee on entry of plaint, 123, 191.
- PLAINT BOOK, form of, 191.
- POLICE COURTS of police court division in the metropolitan police district, 107, 171, 198.  
 of stipendiary magistrates, 107, 171, 199.
- POLICE MAGISTRATES, jurisdiction of, exclusive, 108.  
 formerly concurrent, as regards stipendiary magistrates, 108.  
 of Metropolis, Act of 1867, how enforced by, 23, 26.  
*See* METROPOLITAN POLICE MAGISTRATES.
- POTTER, within Truck Act, 240.  
 case of, held within former law of master and servant, 113, n.
- PREMIUM, on apprenticeship, power of court of summary jurisdiction to order repayment of whole or part, 167.
- PRICE OF WORK AND LABOUR, regulation of, by former legislation, 1, 29.
- PRISON, committal to, on judgment summons, 142, 144.
- PROCEDURE, recommendation of committee of House of Commons, 1866, as to, 15.  
 by orders of justices under Act of 1867..19.
- PROCEDURE UNDER THE EMPLOYERS AND WORKMEN ACT, 1875..105.  
 (1) The tribunal for hearing and determining disputes, 105.  
     county courts and courts of summary jurisdiction, 105.  
     limitation in amount, 106.  
     constitution of courts of summary jurisdiction, 107.  
     rules for carrying jurisdiction into effect, 109.

PROCEDURE UNDER THE EMPLOYERS AND WORKMEN ACT, 1875—*continued*.

- (2) Jurisdiction as to persons and things, 110.
  - employers, 110.
  - workmen, 110, 111.
  - contract, 111.
  - validity of contract, 116.
  - mutuality of contracts, 117.
  - contracts held to have sufficient mutuality, 117.
  - contracts held void for want of mutuality, 118.
  - capacity to contract, 118,
    - married women, 118.
    - infants, 119.
  - the subject-matter of jurisdiction, 121.
- (3) Process of the courts of summary jurisdiction preliminary to the hearing, 122.
  - entry of the plaint, 122.
  - particulars of cause of action, 123.
    - forms, 124.
  - plaint book, 125.
  - summons, 125.
  - service of the summons, 126.
  - attendance of witnesses, 126.
  - notice of set-off not required, 127.
- (4) Proceedings on the hearing, 127.
  - attorneys and counsel, 128.
  - court open to the public, 128.
  - adjournment, 128.
  - defects in substance or form, and variances between summons and evidence, 128.
  - proceedings when both parties appear, 129.
  - proceedings where the defendant does not appear, 130.
  - proceedings where the plaintiff does not appear, 131.
- (5) Orders of the court of summary jurisdiction, 131.
  - general powers of the court in making an order, 131.
  - security for performance, 132.
  - costs, 133.
- (6) The award of damages, 134.
  - liquidated damages or penalty, 139.
- (7) The enforcement of orders, 140.
  - orders for payment of money, 140.
  - execution against goods and chattels, 140.
  - judgment summons, 142.
  - enforcement of undertaking for performance, 144.
- (8) Force and effect of orders, 145.
  - case for opinion of superior court, 146.
  - effect of order on a subsisting contract, 147.
  - effect of order on proceedings in other courts, 149.
- (9) Apprentices, 150.
  - enforcement of order for performance of duties, 152.
  - procedure against parent or other person party to the indenture, 152.

PROCEDURE UNDER THE CONSPIRACY AND PROTECTION OF PROPERTY ACT, 1875..154.

- (1) Offences under the act, 154.
  - wilful and malicious breach of contract of service with gas or water company, 154.

PROCEDURE UNDER THE CONSPIRACY AND PROTECTION OF PROPERTY ACT, 1875—*continued*.

- (1) Offences under the act—*continued*.
  - wilful and malicious breach of contract of service endangering life or serious bodily injury, or exposing valuable property to destruction or injury, 154.
  - master of servant or apprentice neglecting to provide food whereby health seriously or permanently injured, 154.
  - using violence or intimidation, or molestation to compel another to do or abstain from doing any act, 155.
- (2) The tribunal and mode of deciding cases, 159.
  - court of summary jurisdiction, 159.
  - legal proceedings, 160.
  - competency of witnesses, 160.
  - objection by defendant to court of summary jurisdiction, 161.
  - appeal, 163.
  - case for opinion of a superior court, 163.

PROCESS, of courts of summary jurisdiction under Employers and Workmen Act, 1875..122.

- summons, 125.
  - form of, 179.
  - service of, 126.
- summons for witness, 126.
  - form of, 179.
- orders, 133.
  - forms of judgment, 180.
- security for performance, 132.
  - form of undertaking, 186.
- execution against goods, 140.
  - forms of warrants of distress, 184, 185.
- judgment summons, 142.
  - rules respecting, 177.
  - form of, 181.
- order of commitment, 143, 144.
  - form of order, 182.
- order of discharge from custody, 178.
  - form of certificate for discharge, 183.
- in apprentice cases, 150—153.
  - forms, 187—190.
- case for superior court, 146.
- of courts of summary jurisdiction under Conspiracy and Protection of Property Act, 1875..160.
  - information, 160.
    - summons or warrant thereon, 160.
  - examination and committal for trial on objection to jurisdiction, 161, 162.
  - appeal, 163.
  - case, 163.

PROPERTY, injury to, subject of complaint under Act of 1867..18.

- constituted aggravated case, 21.
- punishment for spoiling or injury to, under repealed Combination Act 5 Geo. 4, c. 95..32.
- wilful and malicious breaches of contract exposing property to injury, punishable under Conspiracy and Protection of Property Act, 1875 ..154.
- hiding or depriving or hindering the use of, 155.



PROSECUTION by indictment of offences under Conspiracy and Protection of Property Act, 1875, on defendant's objection to summary jurisdiction, 161.  
costs of, not allowed, 162.

PUBLIC GROUNDS, enforcement of contracts for manual services on, 3, 4.

PUBLIC-HOUSES, prevention of payment of miners' wages at, 285, 291.  
grounds of prohibition, 4.

PUNISHMENT for offences as distinguished from civil remedy for simple breaches of contract, 6, 7.  
prior to 1867 no summary remedy for simple breach, 6.  
distinction introduced by Act of 1867..20.  
object of act to get rid of direct imprisonment for simple breaches, 22.

## Q.

QUARRYMEN, within scope of legislation, 3.

QUARTER SESSIONS, trial of offences at, by jury, recommendation of commissioners as to, 61.  
committal to, of defendant objecting to summary jurisdiction, 162.  
appeal to, under Conspiracy and Protection of Property Act, 1875 ..163.  
under former Act of 1867..20.

## R.

RECOGNIZANCE for performance of contracts, suggestion to committee of House of Commons as to, 16, n.  
provision in Act of 1867 as to, 19.

RECORD, divisional petty sessions not courts of, 109.

REPLY, by complainant, not allowed by Summary Jurisdiction Act, 129.

REPORT of Committee of House of Commons on Master and Servant Act, 1866..15.  
of Committee on Combination Laws, 33.  
of Commission on Trades Unions, 37.  
of Commission (1874) on Labour Laws, 49.  
of Criminal Law Commissioners on Conspiracy, cited, 44, 45.  
of New York Criminal Code Commissioners, cited, 44, n.

RESCINDING CONTRACT, power of county court and court of summary jurisdiction as to, 165.  
the like, by courts of summary jurisdiction, of instruments of apprenticeship, 167.

RIOT, law relating to, not affected by sect. 3 of Conspiracy and Protection of Property Act, 1875..192.

ROYAL COMMISSION ON LABOUR LAWS, Report of, 49.

RULES (of the Lord Chancellor) for carrying into effect the jurisdiction given to courts of summary jurisdiction by the Employers and Workmen Act, 1875..175.  
 authority for making them, 109, 168, 169.  
 cannot enlarge the jurisdiction given by statute, 110.  
 schedule of forms, 179.  
 schedule of costs, 191.

## S.

SCOTLAND, application of Labour Laws, 1875, to, with modifications, 172, 206.

jurisdiction of justices in, prior to Act of 1867..12.  
 process in, stated in popular language, 14.  
 application of former acts to, 12, n.  
 absence of stipendiary magistrates in, effect of, 13.  
 new tribunal for cases in, introduced by repealed Act of 1867..22.  
 search in, for goods purchased or received by broker, 278.  
 determination in, of disputes as to servants enlisting in militia, 299.  
 arrestment of wages in, 13, 14, 16.  
     alteration of, by Act of 1867..21, 22.  
     subsequent limitation, 282.

SEAMEN, excluded from Employers and Workmen Act, 1875..111.

SEAMEN, KEELMEN, &c., assaults on, &c. to prevent from working, 276, 277.

Employers and Workmen Act, 1875, does not extend to seamen, 172.

SEAMEN'S UNION, combination, described, 33.

SECURITY for performance of contract, 132.

first suggestion as to, 16, n.  
 recommendation of Committee of House of Commons as to, 15, 86.  
 provisions of the Act of 1867 as to, 19.  
 security not an essential part of principle of ordering performance, 91.  
 legislation of 1875 as to, 91, 132.  
 form of security, 186.  
     enforcement of, 144.  
 on behalf of apprentice, 153.  
     enforcement of, 153.

SEDITION, law relating to, not affected by Conspiracy and Protection of Property Act, 1875..192.

SERVANT, enforcement of contracts by and against, under early laws, 1, 2.  
 various classes of, 2.

domestic, 2.

clerks employed in trade or business, 2.

no legislation for these classes, 3.

labourers and manufacturers, 3.

legislation directed to them, 3.

domestic, excluded from special legislation on labour laws, 4.

in husbandry, former power of, to summon master for wages, 4.

former power of master to summon for absenting or misconduct, 5.

what classes of, within Act of 1867..18.

dismissal of, for misconduct, power of, not interfered with, 21.

combinations to limit number or description of, 36.

**SERVANT** – *continued.*

offences by and against, under Criminal Law Amendment Act, 1871..  
40, 41.

term “workman” used instead of “servant” in Employers and Workmen Act, 1875..164.

“domestic” or “menial servant” excluded from that act, 170.

but not excluded from criminal breaches of contract under Conspiracy and Protection of Property Act, 1875..97, 158.

false character of servants, punishment, 231.

punishment of master for not providing servant with necessaries, 154,  
194, 276.

civil liability of master to servant for negligence, 263.

for not fencing machinery, 261, 265.

share of profits by servant does not of itself constitute partnership,  
280.

effect of enlistment in army, marines or militia, 294, 299.

*See also* HUSBANDRY, SERVANT IN.

**SERVICE OF SUMMONS**, under Employers and Workmen Act, 1875..  
126.

out of district, 126.

**SET-OFF**, from wages under Truck Act, 234.

under Hosiery Act, 1874..292.

notice of, unnecessary, 127, 176.

of claims, power of court of summary jurisdiction as to, 131.

**SHEFFIELD**, mode in which Act of 1867 applied at, 23, 26.

outrages at, 36, 66.

**SHERIFF**, in Scotland, recommendation of Committee of House of Commons, 1866, as to jurisdiction of, 15.

**SHERIFF COURT**, Scotland, equivalent of “county court” in Employers and Workmen Act, 1875..105, n.

small debt court of, in Scotland, equivalent to court of summary jurisdiction, 108, 172.

**SHOEMAKERS**, existing legislation relating to employers and employed in trade of, 210.

**SIGNATURE**, to contract, necessary before 1875 if service not entered on,  
5, 116, n.

not requisite now, 116, n.

unless required by Statute of Frauds, 116.

to summons under Employers and Workmen Act, 1875..125, 126.

**SILK MANUFACTURE**, existing legislation relating to employers and employed in, 215, 221, 224, 249, 250, 265.

**SMALL DEBT SHERIFF’S COURT IN SCOTLAND**, 14.

expression “court of summary jurisdiction” means in Scotland, 172.

**SMOKE**, provisions on public grounds to prevent, 3.

**SOLICITOR**, costs of employment of, in discretion of court of summary jurisdiction, to limited amount, 178. *See* ATTORNEY.



- SPECIFIC PERFORMANCE**, suggested extension of rules of courts of equity  
 as to, 90, n.  
 imprisonment to compel, allowed by law, 8.  
*See also* PERFORMANCE.  
 application of power given by Act of 1867 to order performance, 24, n.  
 inquiry of Royal Commission on Labour Laws as to application of, to  
 labour contracts, 53.  
 recommended by report, 88.  
 imprisonment essential to enforce order, 54.  
 objections to, considered, 88—91.  
 halting legislation of 1875 respecting, 91.
- STAMP DUTY**, agreements for hire of any labourer, artificer, manufacturer,  
 &c. exempt from, 117.  
 [Note.—No express exemption of written undertaking by way  
 of security for performance of contract.]
- STATE**, contracts and duties of persons employed in service of, not investi-  
 gated, 3.
- STATUTES** affecting employers and employed, various objects of, 3, 4.  
 repeal of various, by legislation of 1875..200—205.  
 Appendix of, unrepealed, 209.
- STIPENDIARY MAGISTRATES**, effect of absence of, in Scotland, 13.  
 recommendation of committee of House of Commons, 1866, as to, 15.  
 of Royal Commission on Labour Laws (1874-5), 61.  
 exclusive jurisdiction of, under Acts of 1875..108, 171, 198.  
 deputies included, 108, n.
- SUBJECT-MATTER OF JURISDICTION** under Employers and Workmen  
 Act, 1875..121.
- SUBSISTING CLAIMS**, power of court of summary jurisdiction to adjust  
 and set off, 131.  
 effect of order on subsisting contract, 147.
- SUMMARY CONVICTION** under Conspiracy and Protection of Property  
 Act, 1875..159.  
 incompetency of defendants as witnesses in cases of, 10, 16.
- SUMMARY JURISDICTION.** *See* COURTS OF SUMMARY JURISDICTION.
- SUMMARY JURISDICTION ACT**, 11 & 12 Vict. c. 43, so termed and applied  
 under Labour Laws of 1875..170, 198.  
 application in Scotland, 173, 206.  
 application in Ireland, 174, 208.
- SUMMARY PROCEDURE**, necessity of, for dealing with breaches of contract,  
 60.  
 existed from early period, 1.
- SUMMONS UNDER EMPLOYERS AND WORKMEN ACT**, 1875..125, 175.  
 application for, 122.  
 form of, 179.  
 prepared and issued by clerk, 125.  
 rule respecting district where to be issued, 175.  
 must be within jurisdiction of justices forming court of summary  
 jurisdiction, 123.  
 direction as to signature of clerk, 125.  
 particulars annexed form part of, 125.  
 defects in, for substance or form, not to prevail, 128.

- SUMMONS UNDER EMPLOYERS AND WORKMEN ACT, 1875—*continued*.  
 clerk's fee for, 123, 191.  
 service of, 126.  
     out of the district, 126.  
 summons for witness, 126. *See* JUDGMENT SUMMONS.
- SUMMONS to master for wages prior to Act of 1867..4.  
 to servant, 5, 6.  
 warrant in default of, 5.  
 procedure by, recommended by Committee of House of Commons, 1866..15.  
 adopted by legislature in Act of 1867..24.  
 the only process under Employers and Workmen Act, in the first instance, 1875..125, 175.
- SUPERIOR COURT, control by, of court of summary jurisdiction, 146.  
 concurrent jurisdiction of, in one sense, 105, n.  
 practically excluded from cases of employer and employed, 105.  
 case for opinion of, 146.
- SURETIES for performance of contracts, 1.  
 suggestion to Committee of House of Commons, as to, 16, n.  
 provision of Act of 1867 as to, 19.
- T.
- TAILOR, journeyman, within former act, 113, n.
- TAILORS' ASSOCIATION, proceedings of, 36, 37.  
 London, strike of, in 1867..67.
- THAMES, recovery of wages for labour on, 248.
- THINGS, jurisdiction as to, under Employers and Workmen Act, 1875..110.
- THREATS, provision respecting, in Combination Act, 5 Geo. 4, c. 95..32.  
     in 6 Geo. 4, c. 129..35.  
     in Criminal Law Amendment Act, 1871..40.
- TOOLS, spoiling or destroying, punishment for, by Combination Act, 5 Geo. 4, c. 95..32.  
 molestation by hiding, &c., offence under Criminal Law Amendment Act, 1871..41.
- TRADE, combinations to force alterations in mode of carrying on, unlawful, 32, 36.
- TRADE UNIONS, existence of after 5 Geo. 4, c. 95..32, 33.  
 organization of, described, 33.  
 forcing persons to join, forbidden, 32, 35, 36.  
 outrages at Sheffield and Manchester, 36.  
 commission of 1867 to inquire into organization of, 37.  
 act to amend the law as to, 37, 38, 282.  
     provisions of, 38, 39.  
     convictions under, 39.  
 right of men to combine. *See* COMBINATIONS.  
 limitation of indictable conspiracies contained in the Trade Union Act, 1871..282.

- TRIBUNAL for enforcing contracts, early legislation respecting, 1.  
 alteration in, effected by Act of 1867..22.  
 recommendation of royal commission as to, 60, 61.  
 tribunal under Employers and Workmen Act, 1875..105.  
     county court, 105.  
     court of summary jurisdiction, 105.  
         constitution of court, 107.  
         rules for carrying jurisdiction into effect, 109.  
 tribunal under Conspiracy and Protection of Property Act, 1875..159.
- TRUCK ACT, 1 & 2 Will. 4, c. 37..233.  
 cases decided in relation to, 242—247.  
 persons to whom the statute applies, 243.  
 illegal payments, 245.  
 deductions from wages, 246.  
 of forfeitures, 171, 172.  
 law extended in the hosiery manufacture, 292.  
 contracts void by, cannot be enforced, 116, 117.  
 act *in pari materiâ* with Master and Servant Acts, 114, n.

## U.

- ULTRA VIRES, doctrine of, applied to the Lord Chancellor's rules, 110.
- UNDERTAKING for performance of contract, 165, 168.  
     may be in writing or oral, 168.  
     form of, 186.  
     enforcement of, 144, 145.
- UNIONS, TRADE. *See* TRADE UNIONS.
- UNITED STATES, law of, as to trade conspiracies, 44, 48.
- UNLAWFUL ASSEMBLIES, law as to, not affected by Act of 1875..192.
- UNLIQUIDATED DAMAGES, power of Act of 1867, extended to, 21.  
     power of courts of summary jurisdiction under Employers and Workmen Act, 1875, to adjust and set off, 131.

## V.

- VALIDITY OF CONTRACT, contract of service or to personally execute work, must be valid in law to allow of its being enforced, 116.
- VARIANCE between summons and evidence, effect of, 128.
- VIOLENCE, certain acts of, prohibited by combination laws, 32, 35, 40.  
     using, with view to unlawful control of freedom of action, an offence under Conspiracy and Protection of Property Act, 155.

## W.

- WAGES, recovery of, before justice of the peace from an early period, 1.  
     enforcement of work at king's, 2, n.  
     legislation respecting immediately before Act of 1867..4.  
         limitation of amount, 4.  
         abatement of, 5, 11.



**WAGES—continued.**

legislation respecting immediately before Act of 1867—*continued.*

in case of apprentices, 5.

jurisdiction as to, in Ireland, 11.

in Scotland, 12.

power to abate under Act of 1867..19.

apportionment of, under Act of 1867..19.

notion that no remedy for, under Act of 1867..23, n.

a misapprehension, *ib.*

power of recovery, and adjustment and set-off under Employers and Workmen Act, 1875..131.

deductions from, under Truck Act, 246, 292.

recovery of, by bargemen and watermen on Thames, 248.

payment of, on bankruptcy, 281.

former power to sue agents, managers, and foremen for, taken away, 83.

combination to raise, unlawful by former combination laws, 29, 30, 31.

power of married women and infants to contract for, 119.

attachment of, by inferior courts, abolished in England, 282.

arrestment of, in Scotland, 13, 14.

dissatisfaction caused, 13.

recommendation of Committee of House of Commons, 1866, as to, 16.

limitation of, by act of parliament, 282.

of colliers and miners not to be paid at public-house, 285, 291.

to be paid by weight when dependent on amount of mineral gotten, 285.

various provisions as to weights, 286, 289.

in hosiery manufacture to be paid without deductions, 292.

fines for absence may be stopped, 293.

but only to amount of damage sustained, 171, 172.

**WARRANT FOR APPREHENSION** of master, on default of appearance to summons before repealed Act of 1867..4.

of servant in first instance, 5, 6.

formerly arrest of servant in first instance more common in Scotland than in Ireland, 12.

not to issue on default of appearance of defendant, under Employers and Workmen Act, 1875..130.

except in the case of an apprentice, *ib.*

may issue on information for offence under Conspiracy and Protection of Property Act, 1875..160.

but summons generally advisable, 160.

copy of warrant should accompany depositions in case of commitment for trial after objection to jurisdiction, 163.

**WARRANT OF COMMITMENT**, for trial on objection by defendant to jurisdiction, 162.

must be carefully framed, 162.

order of commitment on judgment summons, 177.

form, 182.

of apprentice for disobeying order to perform duties, form of, 188.

**WARRANT OF DISTRESS**, form of, for payment of money by plaintiff, 184.  
for payment of money by defendant, 185.

**WARRANT TO CITE**, in Scotland, procedure by, recommended by Committee of House of Commons, 1866..15.

**WATCHES.** *See* CLOCKS.

- WATCHING house or place, molestation by, offence of, under repealed Criminal Law Amendment Act, 1871..41.  
substituted provision in Conspiracy and Protection of Property Act, 1875..155.
- WATER, wilful and malicious breach of contract with authority or company having duty to supply, 154, 193.  
authority or company to post up provision of act at works, 157.
- WATERMEN on Thames, recovery of wages by, 248.
- WIFE, violence or intimidation to, 155. *See* WIVES.
- WILFUL breach of contract necessary to constitute offence in servant prior to 1867..6, 92.  
case in which doctrine of *mala fides* applied, 6, n.  
distinction between, and wrongful, 16, n.  
effect of Act of 1867 on rule, 92.  
latitude of remedy gave magistrates power to draw distinction between wilful and *bonâ fide* disputes, 92.  
all distinction removed under Employers and Workmen Act, 92.  
but wilful and malicious acts with grave actual or probable results punishable under Conspiracy and Protection of Property Act, 93, 94, 154, 155.
- WILFUL AND MALICIOUS BREACHES OF CONTRACT punishable under Conspiracy and Protection of Property Act, 1875..154.
- “WILFULLY AND MALICIOUSLY,” meaning of, as applied to breaches of contract, 94, 155, 274.
- WITNESS, attendance of, under Employers and Workmen Act, 1875..126.  
summons for, 127.  
form, 179.  
fee on, 191.  
examination of, on oath, 127.
- WITNESSES, admissibility of parties as, 99, n.  
former distinction as to competency of masters and servants, 10.  
ground of distinction, 10.  
suggestion as to admissibility of defendants, 17, n.  
no alteration recommended by committee, 16.  
but carried out by Act of 1867..21.  
further extended by legislation of 1875..99, 100.  
no provision necessary under Employers and Workmen Act, 1875..127.  
extension by Conspiracy and Protection of Property Act, 197.  
on the trial of indictments, 100, 197.
- WIVES of defendants competent witnesses, 197.  
observations on effect of extension of power, 99, 101.  
*See* WITNESSES.
- WOOLLEN manufacture, existing legislation respecting employers and workmen in, 209, 210, 211, 213, 215, 219, 221, 222, 224, 249, 250.
- WORK, enforcement of, by former legislation, 1.  
unlawful combinations to force departure from, 32, 40.

- **WORK AND MATERIALS**, combination to force return of, before finished, 32, 40.  
unlawful disposal of, by workman or apprentice in Ireland, 278.  
[See special provisions in England in the acts given in the Appendix.]
- WORKMEN**, summary legislation applied to, 3.  
included in Act of 1867..18.  
violence, threats, or intimidation to, with a view to coerce, offence under Criminal Law Amendment Act, 1871..40.  
right of, to combine, 63, 65.  
limits of right as regards means used to attain ends, 64, 79.  
individual right of, as against unions, 64.  
former power of, to sue agents, managers and foremen, 83.  
power no longer exists, 83.
- “**WORKMEN**,” definition of, in Employers and Workmen Act, 1875..110, 170.  
“handworkers,” expression used by Mr. Rupert Kettle, 111, n.
- WORSTED MANUFACTURE**, existing legislation relating to employers and employed in the, 222, 250.
- WRITING**, contract in. See **WRITTEN CONTRACT**.
- WRITTEN COMPLAINT** before justice not necessary under Employers and Workmen Act, 1875..123.
- WRITTEN CONTRACT**, necessary before 1875 to enforce where service not entered upon, 5.  
not now essential, 116, n.  
suggestion that contracts of service should be in writing disapproved of by royal commission, 61, 62.
- “**WRONGFUL BREACH**,” distinction between, and wilful or guilty act, 6, 16, n.

THE END.



LONDON:  
PRINTED BY C. ROWORTH AND SONS,  
NEWTON STREET, HIGH HOLBORN.

A  
Catalogue

OF

LAW WORKS

PUBLISHED BY

MESSRS. BUTTERWORTH,

Law Booksellers and Publishers



TO THE QUEEN'S MOST EXCELLENT MAJESTY

AND TO

H.R.H. THE PRINCE OF WALES.

*"Now for the Laws of England (if I shall speak my opinion of them without partiality either to my profession or country), for the matter and nature of them, I hold them wise, just and moderate laws: they give to God, they give to Cæsar, they give to the subject what appertaineth. It is true they are as mixt as our language, compounded of British, Saxon, Danish, Norman customs. And surely as our language is thereby so much the richer, so our laws are likewise by that mixture the more complete."*—LORD BACON.

LONDON:

7, FLEET STREET, E.C.

1876.

# Index to Catalogue.

	PAGE
Accounts,	
<i>Solicitors'.</i> Coombs ..	32
<i>Law of.</i> Pulling ...	45
Actions at Law.	
Browne ... ..	46
Kerr ... ..	22
Lush ... ..	18
Williams ... ..	38
Administration Bonds.	
Chadwick ... ..	32
Admiralty,	
<i>Practice.</i> Coote ...	13
<i>Prize Law.</i> Lushington	14
Adwosons.	
Mirehouse ... ..	47
Agricultural Holdings.	
Bund ... ..	7
Aliens. Cutler ... ..	35
Arbitrations. Redman	39
Arbitrations (Masters and Workmen).	
Lovesy... ..	39
Articled Clerk.	
Examination Journal	42
<i>Handy Book.</i> Mosely	26
<i>Student's Guide.</i> Benham	31
Attachment,	
<i>Foreign.</i> Brandon ...	28
Average, General.	
Crump ... ..	31
Awards. Redman ... ..	39
Banking. Grant ... ..	13
Keyser ... ..	46
Bankruptcy.	
Bulley & Bund ... ..	32
<i>County Courts.</i> Davis	9
<i>Index.</i> Linklater ... ..	45
Robson ... ..	18
Bar. Pearce ... ..	43
Smith ... ..	38
Bar Examination Journal	43
Barbados, Law of ... ..	44
Belligerents.	
Hamel ... ..	44
Phillimore ... ..	24
Bills of Exchange.	
Grant ... ..	13
Bills of Sale. Hunt. .	36
Blackstone. Stephen's	5
Blockade. Deane ... ..	45
Bookkeeping, Solicitors'.	
Coombs ... ..	32

	PAGE
Boundaries. Hunt ...	15
Brokers. Keyser ... ..	46
Burgesses' Manual.	
Gaches ... ..	22
Canal Traffic. Powell...	39
Carriers,	
<i>Inland.</i> Powell ... ..	39
<i>Railway.</i> Shelford ...	30
Chamber Practice,	
<i>Common Law.</i> Parkinson ..	37
Chancery Practice.	
Goldsmith ... ..	21
Hunter... ..	15
<i>Drafting.</i> Lewis ... ..	21
Channel Islands.	
Bowditch ... ..	45
Le Cras ... ..	45
Charitable Trusts.	
Tudor ... ..	23
Chart of Descents.	
Fearne... ..	46
Hindu, of Inheritance	46
Church Building.	
Trower... ..	34, 47
Church Seats. Heales	3, 47
Circumstantial Evidence. Wills ... ..	33
Civil Law.	
Tomkins and Jencken	23
Civil Service Exam.	
(Indian). Cutler ... ..	44
Code, English Law.	
Blaxland ... ..	46
Collieries. Bainbridge..	12
Commentaries.	
Phillimore's, International ... ..	24
Stephen's Blackstone's	5
Commercial,	
<i>Forms.</i> Crabb ... ..	25
<i>Law.</i> Chitty... ..	46
<i>Treaties.</i> Hertslet ...	33
Common Form Practice.	
Coote ... ..	7
Common Law,	
<i>At Chambers.</i> Parkinson ... ..	37
<i>Costs.</i> Gray... ..	44
<i>Pleading.</i> Chitty, jun....	27
Greening ... ..	45
Williams ... ..	38

	PAGE
Common Law— <i>con.</i>	
<i>Practice.</i>	
Dixon ... ..	18
Kerr ... ..	22
Lush ... ..	18
Companies. Shelford ..	12
Compensation,	
<i>Law of.</i>	
Ingram ... ..	35
Shelford ..	30
Consolidation Acts.	
Shelford ... ..	30
<i>Criminal.</i> Davis ...	39
Conspiracy.	
Davis ... ..	6
<i>Law of.</i> Wright ...	36
Constitution. May ... ..	11
Stephen	5
Constitutional History.	
Fulton... ..	10
Contentious Business.	
Tristram ... ..	34
Contentions Prabate Practice.	
Tristram ... ..	34
Contraband of War.	
Moseley ... ..	45
Contracts,	
<i>Specific Performance.</i>	
Fry ... ..	36
Pothier ... ..	46
Contributories.	
Collier... ..	10
Conveyancing,	
<i>Introduction to.</i>	
Lewis ... ..	21
<i>Practice.</i>	
Barry ... ..	20
Rouse ... ..	16
Smith ... ..	38
Tudor ... ..	22
<i>Forms.</i>	
Barry ... ..	20
Christie ... ..	25
Crabb ... ..	25
Kelly ... ..	11
Rouse ... ..	16
Shelford ... ..	25
Convictions (Summary),	
<i>Synopsis of.</i> Oke ...	29
<i>Forms.</i> Oke ... ..	29
Co-operative Societies.	
Brabrook ... ..	16
Copyholds,	
<i>Enfranchisement.</i> Rouse	26
<i>Law of.</i> Scriven ...	28
Coroner. Baker ... ..	45
Corporations,	
<i>Municipal.</i> Gaches ...	22
<i>In General.</i> Grant ...	27



	PAGE		PAGE		PAGE
Costs,		Evidence,		Inheritance, Indian	
<i>Law of.</i> Gray ... 44		<i>Circumstantial.</i> Wills 33		Chart of. Field ... 46	
County Courts.		<i>County Court.</i> Davis 9		Inns, <i>Law of.</i> Oke ... 29	
Davis ... 9		<i>Indian.</i> Field ... 41		Institutes of Public and	
<i>Rules and Acts, 1875.</i>		<i>Law of.</i> Powell ... 6		Private Law.	
Davis ... 9		<i>Wills.</i> Wigram ... 40		Nasmith ... 14	
<i>Equity and Bankruptcy.</i>		Examinations.		Insurance, Marine.	
Davis ... 9		<i>Preliminary.</i>		Crump ... 31	
Criminal Law.		Benham ... 34, 43		Intermediate Exami-	
Davis ... 39		<i>Journals</i> ... 42, 43		nation,	
Oke ... 29		<i>Intermediate and Final.</i>		<i>Guide.</i> Bedford ... 19	
Cnrates. Field ... 47		Mosely ... 26, 42		<i>Journal</i> ... 42	
Decds. Tudor ... 22		Fences. Hunt ... 15		International Law.	
Descents. Fearn ... 46		Fisheries, <i>Salmon.</i> Bund 17		Hamel ... 44	
Dictionary, <i>Law.</i>		Oke ... 48		Hertslet ... 33	
Mozley & Whiteley 5, 48		Foreign Attachment.		Phillimore ... 24	
Digest,		Brandon ... 28		Jersey ( <i>Law of.</i> )	
<i>House Lords Cases.</i>		Foreshores.		Bowditch ... 45	
Clark ... 20		Hunt ... 15		Le Cras ... 45	
<i>Patent Cases.</i>		Williams <i>r.</i> Nichol-		Joint Stock.	
Higgins ... 8		son ... 44		<i>Banks.</i> Grant ... 13	
Discovery of Evidence.		Forms,		<i>Companies.</i> Shelford 12	
Hare ... 21		<i>Conveyancing.</i> Barry .. 20		Judicature Acts.	
Divorce.		Crabb .. 25		Baxter ... 27	
<i>Practice.</i> Browning .. 28		Rouse 16		Bedford ... 19	
Domestic Servants.		<i>County Courts.</i> Davis 9		Chute ... 23	
Baylis ... 8		<i>Magisterial.</i> Oke ... 29		Rogers ... 17	
Drafting, <i>Equity.</i>		<i>Probate.</i> Chadwick 32		Webb ... 22	
Lewis ... 21		Frauds. Hunt ... 36		Jurisprudence.	
Draftsman ( <i>The</i> )		Friendly Societies.		<i>Form of Law.</i> Holland 37	
Kelly ... 11		Brabrook ... 16		Webb ... 6	
Drainage.		Gaius' Roman Law ... 38		Justice of Peace. Oke 29	
Woolrych ... 27		Game Laws. Oke ... 48		Labour Laws. Davis... 6	
Wilson ... 44		Gaming. Edwards ... 46		Landlord and Tenant.	
Easements. Latham ... 34		Gas Companies Acts.. 36		Fawcett ... 13	
Ecclesiastical,		Gavelkind.		Law Dictionary.	
<i>Practice.</i> Coot... 47		Robinson ... 46		Mozley & Whiteley ... 5	
<i>Judgments.</i>		General Average.		Law and Equity. Chute 23	
Burder <i>v.</i> Heath ... 47		Crump ... 31		Law Exam. Journal 42	
Gorham <i>v.</i> Bp. of Exeter 47		Guarantees. De Colyar 14		Law Pamphlets. 44, 45,	
Hebbert <i>v.</i> Purchas ... 47		Health, Public.		46, 47	
Long <i>v.</i> Bp. Cape Town 47		Glen ... 37, 48		Law Studies. Mosely ... 26	
Martin <i>v.</i> Mackonochie 47		Highways. Glen 37, 48		Smith ... 38	
Westerton <i>v.</i> Liddell ... 47		History, Constitutional.		Stephen's Blackstone 5	
Election,		Fulton ... 10		Leading Cases,	
<i>Law.</i> Davis... 28		House of Lords,		<i>Real Property.</i> Tudor 22	
Elementary Law.		<i>Practice.</i> May ... 11		Leases. Crabb ... 25	
Francillon ... 44		<i>Digested Index to Cases.</i>		Rouse ... 16	
Mosely ... 26		Clark ... 20		Legacy Duties. Shelford 26	
Enfranchisement, Copy-		Idiots. Phillips... 18		Libel. Starkie ... 48	
holds. Rouse ... 26		Income Tax Laws.		Licensing Laws. Oke... 29	
England,		Dowell... 40		Life Assurance.	
<i>Laws of.</i> Blackstone... 5		Indian Civil Service		Blayne... 46	
Stephen .. 5		Exam. Cutler ... 44		Lord Mayor's Court.	
English Bar. Pearce ... 43		Indian Evidence. Field 41		Brandon .. 28	
Smith ... 38		Indian Penal Code.		Lords, House of, Cases.	
English Law.		Cutler and Griffin ... 41		Clark ... 20	
Blaxland ... 46		Indian Statute Law.		Lunacy. Phillips ... 18	
Equity,		Field ... 41		Magisterial Law,	
<i>Doctrine and Practice of.</i>		Industrial & Provident		<i>Acts.</i> Davis ... 39	
Goldsmith ... 21		Societies. Brabrook 16		<i>Practice.</i> Oke ... 29	
Draftsman. Lewis ... 21				<i>Forms.</i> Oke... 29	
<i>Equity and Law.</i> Chute 23					
Pleader. Drewry ... 34					
<i>Prevalence of.</i> Trower 13					
<i>Suit in.</i> Hunter ... 15					
<i>See</i> Chancery.					

	PAGE		PAGE		PAGE
Marine Insurance.		Preliminary Examination Guide and Journal ...	34, 43	Settlements,	
Crump ...	31	Principal and Surety.		<i>Voluntary.</i> Rouse ...	16
Maritime Warfare.		De Colyar ...	14	Sewers. Woolrych ...	27
Deane ...	45	Priority.		Sheriff. Sewell... ..	46
Hamel ...	41	Fisher ...	48	Short Hand. Gurney... ..	45
Master and Servant.		Private Bills.		Slander. Starkie ..	48
Baylis ...	8	Clifford & Stephens ...	19	Solicitors' Bookkeeping.	
Davis ...	6	May ...	11	Coombs ...	32
Master and Workmen.		Private Law (English).		Specific Performance.	
Lovesy ...	39	Nasmith ...	14	Fry ...	36
Matrimonial Causes.		Privilege, Parliamentary.		Stamp Laws. Dowell... ..	40
Browning ...	28	May ...	11	Standing Orders. May	11
Mercantile Accounts.		Privy Council Practice.		Stock Exchange. Grant	13
Pulling ...	45	<i>Admiralty.</i> Coote ...	18	Keyser	46
Mercantile Law.		Prize Law. Lushington	34	Students' Examination	
Chitty ...	46	Probate,		Guide. Benham ...	34
Accounts. Pulling ...	45	<i>Common Form.</i> Coote	7	Mozley ...	26
Military Law.		<i>Contentious.</i> Tristram	34	Succession Duty.	
Dwyer ...	46	<i>Forms.</i> Chadwick ...	32	Shelford ...	26
Mines and Minerals.		<i>Duties.</i> Shelford ...	26	Summary Convictions.	
Bainbridge ...	12	Property Tax Laws.		Oke ...	29
Mortgages. Fisher ...	48	Dowell ...	40	Suit in Equity. Hunter	15
Rouse ...	16	Provident Societies.		Surety, Principal and.	
Municipal Law.		Brabrook ...	16	De Colyar ...	14
Gaches ..	22	Public Health. Glen... ..	37	Tenancies, Agricultural.	
Grant ...	27	Public Law (English).		Bund ...	
Naturalization. Cutler	35	Nasmith ...	14	Tenant, Landlord and.	
Naval Prize.		Railways. Shelford ...	30	Fawcett ...	13
Lushington ...	34	<i>Compensation.</i> Ingram	35	Time Table. Bedford..	19
Negligence. Saunders... ..	35	<i>Carriers.</i> Powell ...	39	Tithes. Schomberg ...	46
Neutrals. Phillimore... ..	24	Real Property.		Town Councillors Manual	
Ortolan's Roman Law	15	Seaborne ...	20	Gaches ...	22
Pamphlets, Law. 44, 45,		Tudor ...	22	Torts. <i>Law of.</i> Underhill	11
46, 47		<i>Chart.</i> Fearn ...	46	Trades Unions. Brabrook	16
Parliamentary.		Referees' Court Practice.		Treaties. Hertslet ..	33
Clifford & Stephens ...	41	Clifford & Stephens... ..	41	Trusts, Charitable.	
Davis ...	28	Registration. Davis ...	28	Tudor ...	23
May ...	11	Religion. Church & State	47	Turnpike Laws. Oke	30
Parsonages. Trower ...	34	Ritual. Bayford ...	47	Vendors & Purchasers.	
Partnership. Dixon ...	17	Bullock ...	47	Seaborne ...	20
Patent Cases.		Hamel ...	47	Wagers. Edwards ...	46
Higgins ...	8	Phillimore ...	47	Water Companies Acts	36
Patents. Norman ...	44	Roman Law.		Waters. Hunt ...	15
Peerage Claims, Gardner.		Gaius ...	38	Wills. Coote ...	7
Le Marchant ...	44	Ortolan ...	15	Crabb ...	25
Petty Sessions. Oke... ..	29	Tomkins ...	38	Rouse ...	16
Pews. Heales ...	37, 47	Tomkins and Jencken	23	Tudor ...	22
Pleading,		Salmon Fisheries.		Wigram ...	40
<i>Common Law.</i>		<i>Law of.</i> Bund ...	17	Winding-up. Collier ...	10
Chitty, Jun. ...	27	Savings Banks. Grant	13	Grant ...	13
Greening ...	45	Schools. Trower ...	34	Shelford	12
Williams ...	38	Sea Shore. Hunt ...	15	Window Lights. Latham	34
<i>Equity.</i> Drewry ...	34	Servants. <i>Law of.</i> Baylis	8	Wrongs. Underhill ...	11
Lewis ...	21				
Poor Law Orders ...	32				
Precedents,					
<i>Conveyancing.</i> Crabb	25				
Rouse	16				
<i>Mortgage.</i> Fisher ...	48				
<i>Pleading.</i> Chitty ...	27				



**Stephen's Blackstone's Commentaries.—Seventh Edition.**4 vols. 8vo., 4*l.* 4*s.* cloth.

**MR. SERJEANT STEPHEN'S NEW COMMENTARIES ON THE LAWS OF ENGLAND**, partly founded on Blackstone. The Seventh Edition. By JAMES STEPHEN, Esq., LL.D., Judge of County Courts; late Professor of English Law at King's College, London, and formerly Recorder of Poole.

*From the Law Journal.*

"We entertained no doubt in 1868 that the approbation accorded theretofore to the father would not be withheld from the son, whose name had already been connected with the Work, and whose eminence as a lawyer was an absolute guarantee that no falling off would be detected in knowledge, accuracy, diction or method. The event has shown that this expectation was well founded, and we cordially welcome the Seventh Edition of this noble and famous Work.

"It is unnecessary for us on this occasion to repeat the eulogy which six years ago we bestowed, not without just reason, on the Commentaries as they then appeared. It has been remarked that Stephen's Commentaries enjoy the special merit of being an educational work, not merely a legal text book. Their scope is so wide that every man, no matter what his position, profession, trade or employment, can scarcely fail to find in them matter of special interest to himself, besides the vast fund of general information upon which every Englishman of intelligence may draw with advantage."

*From the Solicitor's Journal.*

"A Work which has reached a Seventh Edition needs no other testimony to its usefulness. And when a law book of the size and costliness of these 'Commentaries' passes through many editions, it must be taken as established that it supplies a need felt in all branches of the profession, and probably to some extent, also, outside the profession. It is difficult indeed to name a law book of more general utility than the one before us. It is (as regards the greater part) not too technical for the lay reader, and not too full of detail for the law student, while it is an accurate and (considering its design) a singularly complete guide to the practitioner. This result is due in no small degree to the mode in which the successive editions have been revised, the alterations in the law being concisely embodied, and carefully interwoven with the previous material, forming a refreshing contrast to the lamentable spectacle presented by certain works into which successive learned editors have pitchforked headnotes of cases, thereby rendering each edition more uncon-

needed and confusing than its predecessor. As the result of our examination we may say that the new law has, in general, been accurately and tersely stated, and its relation to the old law carefully pointed out."

*From the Law Times.*

"We have in this Work an old and valued friend. For years we have had the last, the Sixth Edition, upon our shelves, and we can state as a fact that when our text books on particular branches of the Law have failed us, we have always found that Stephen's Commentaries have supplied us with the key to what we sought, if not the actual thing we required. We think that these Commentaries establish one important proposition, that to be of thorough practical utility a treatise on English Law cannot be reduced within a small compass. The subject is one which must be dealt with comprehensively, and an abridgment, except merely for the purposes of elementary study, is a decided blunder.

"Of the scope of the Commentaries we need say nothing. To all who profess acquaintance with the English Law their plan and execution must be thoroughly familiar. The learned Author has made one conspicuous alteration, confining 'Civil Injuries' within the compass of one volume, and commencing the last volume with 'Crimes,'—and in that volume he has placed a Table of Statutes. In every respect the Work is improved, and the present writer can say, from practical experience, that for the Student and the Practitioner there is no better Work published than 'Stephen's Commentaries.'"

*From the Law Examination Journal.*

"What Bacon's works are to philosophy, Blackstone's Commentaries and Stephen's Commentaries, founded on Blackstone, are to the study of English Law. For a general survey of the entire field of English Law, or, at least, for a comparative survey of different branches of law, Stephen's Commentaries are unrivalled; and we may observe that these Commentaries should not be used merely as a book of reference, they should be carefully studied."

**Mozley and Whiteley's Concise Law Dictionary.**

In 1 vol. 8vo., cloth.

**A CONCISE LAW DICTIONARY**, containing Short and Simple Definitions of the Terms used in the Law. By HERBERT NEWMAN MOZLEY, M.A., Fellow of King's College, Cambridge, and of Lincoln's Inn, Esq., and GEORGE CRISPE WHITELEY, M.A. Cantab., of the Middle Temple, Esq., Barristers at Law.

\* \* \* This work, which has been for some time in preparation, purposes to give short and simple explanations of the technical terms and phrases used in the Law, including both those found in the older legal works and those of more modern and every day occurrence; the object being to produce a book which shall be useful, not only to Law Students and to members of both branches of the Legal Profession, but also to Magistrates and the general public.



## Davis's Labour Laws of 1875.

8vo., 12s. cloth.

THE LABOUR LAWS OF 1875, with Introduction and Notes. By J. E. DAVIS, of the Middle Temple, Esq., Barrister at Law, and late Police Magistrate for Sheffield.

"This is a class of book which is very much wanted, and should receive every encouragement. Mr. Davis says that his object has been to combine a popular comment with a strictly practical treatise. In this he has completely succeeded. The book is in every respect careful and thoughtful, it gives the best reading of the law which we have, and furnishes *in extenso* all the Acts of Parliament relating to the subject."—*Law Times*.

"Mr. Davis's book is not a reprint of the acts with a few notes, but an original and complete treatise, and it will be appreciated by those who are concerned in the working of the labour laws."—*Law Journal*.

"The 'Labour Laws' are the subject of a treatise by Mr. J. E. Davis which magistrates and practitioners will find useful."—*Daily News*.

"A good book on this subject should fulfil two distinct functions by no means easy to combine. It should afford a clear and untechnical explanation of the law for the benefit of the magistrates who will have to administer, and it should also contain a careful and accurate commentary on the law for the benefit of

lawyers. Mr. Davis has, in our opinion, successfully fulfilled both these requisites. Mr. Davis may be congratulated upon having produced a book which will probably become the standard work on this important subject."—*Solicitors' Journal*.

"Perhaps no one is so well qualified for the task as Mr. Davis. The work will undoubtedly increase the reputation of the author, and may be regarded as essential to all who have to administer the law."—*Capital and Labour*.

"The work is intended to be, and no doubt will become a text-book for the profession and for those who will have to administer the law."—*Beehive*.

"The best exposition that we know of, of the Labour Laws of the country."—*Echo*.

"A new and important work on the Labour Laws. Mr. Davis's special knowledge of these statutes eminently fits him for the work."—*Sheffield Daily Independent*.

"We can only assure our readers that we conscientiously estimate the work as one upon the possession of which they will congratulate themselves."—*Irish Law Times*.

## Powell on Evidence. 4th Edition. By Cutler & Griffin.

Post 8vo., 18s. cloth.

POWELL'S PRINCIPLES AND PRACTICE OF THE LAW OF EVIDENCE. Fourth Edition. By J. CUTLER, B.A., Professor of English Law and Jurisprudence, and Professor of Indian Jurisprudence at King's College, London; and E. F. GRIFFIN, B.A., Barristers at Law.

\* \* \* This edition contains the alterations necessary to adapt it to the practice under the Judicature Acts, as well as other material additions.

"The plan adopted is, we think, an admirable one for a concise, handy book on the subject. Such maxims as, that hearsay is inadmissible, are given at the head of the chapter in large type, and then follow the explanation and application of the general rule. As the book is primarily for the use of students intending to go to India, the references to Indian law are numerous; but as the Indian law of evidence very closely follows our own the book is useful to all students, and even where there is a divergence between the two systems it is generally instructive to trace it. The Indian code of evidence given at the end of the book deserves to be read by every student, whether going to India or not. The few rules of the English law of evidence which are purely statutory are also given verbatim, including the two orders of the Judicature Act, 1875, which appear to be correctly appreciated. The present form of Powell on Evidence is a handy, well-printed and carefully prepared edition of a book of deserved reputation and authority."—*Law Journal*.

"The editors of this work put forward 'no claim to that exhaustiveness which other works dealing with the law of evidence aim at.' Their desire, on the contrary, is to 'adhere to the principle' of their author 'of not overloading the book with cases.' We heartily approve the principle; which, however, is somewhat difficult of application. We must add, however, that in most instances the cases are tersely abstracted, and the convenience of the reader is consulted by

references to more than one set of reports. The plan of the book is to give pretty frequently, and, as far as we can discover, in almost every chapter, a 'rule' of general application, and then to group the cases round it. These rules or axioms are printed in a distinctive type. The work has been pruned and remodelled by the light of the Judicature Acts. The authors give in an appendix the Indian Evidence Acts, with some Indian decisions thereupon, and occasionally notice these acts in the text. On the whole we think this is a good edition of a good book. It brings down the cases to the latest date, and is constructed upon a model which we should like to see more generally adopted."—*Solicitors' Journal*.

"We have received the fourth edition of 'Powell's Principles and Practice of the Law of Evidence,' by Cutler and Griffin. We are informed in the preface that the results of the Judicature Acts as regards evidence have been duly noted, whilst the work itself has been rendered more comprehensive. It is an excellent summary of principles."—*Law Times*.

"There is hardly any branch of the law of greater interest and importance, not only to the profession, but to the public at large, than the law of evidence. On this branch of the law, moreover, as well as on many others, important changes have been effected of recent years. We are, therefore, all the more inclined to welcome the appearance of the Fourth Edition of this valuable work."—*Law Examination Journal*.

## Coote's Probate Practice.—Seventh Edition.

In 1 vol., 8vo., 25s. cloth.

THE COMMON FORM PRACTICE OF THE HIGH COURT OF JUSTICE IN GRANTING PROBATES AND ADMINISTRATIONS. By HENRY CHARLES COOTE, F.S.A., late Proctor in Doctors' Commons, Author of "The Practice of the Ecclesiastical Courts," &c., &c. Seventh Edition.

"The profession will be glad to welcome the publication of this most valuable work. When the monopoly which the proctors and advocates enjoyed in Doctors' Commons was abolished, and the practice in probates and letters of administration was thrown open to the general profession, the uninitiated derived greater benefit and instruction from this book than from any other which was published for their guidance. It has become an acknowledged necessity in the library of every practitioner. Since the publication of the last edition, new rules have been promulgated for the Court of Probate, other regulations have been made by acts of parliament and an order in council, and the practice of the Court has in some respects been altered and settled. These changes have been attended to. A more useful book than this we do not know, and we need not say more than that in this

edition the authors have done all in their power to increase its utility and secure its completeness."—*Law Magazine and Review*.

"A fifth edition in so short a time is a success that few law books can boast, and it is well deserved. Mr. Coote as a proctor possesses that intimate acquaintance with the minutiae of practice which experience only can supply. Having noticed its successive editions as they appeared, it remains only to say that it brings down the statutes and cases to the present time."—*Law Times on the 5th Ed.*

"We must not omit to praise the complete character of the Appendix, which, occupying more than half the whole work, presents us with the statutes, the orders in council, rules and fees, tables of costs and forms, and leaves nothing to be desired by the proctor or solicitor either in the routine of common form or in the stages of suits."—*Law Journal on the 5th Ed.*

## Bund's Agricultural Holdings Act, 1875.

Demy 12mo., 5s. cloth.

THE LAW OF COMPENSATION FOR UNEXHAUSTED AGRICULTURAL IMPROVEMENTS, as amended by the Agricultural Holdings (England) Act, 1875. By J. W. WILLIS BUND, M.A., of Lincoln's Inn, Barrister at Law, Author of "The Law relating to Salmon Fisheries in England and Wales," &c.

"It will be found very serviceable to all those who have to administer the Agricultural Holdings Act of last session, and by all practically interested in it, whether as landlords, tenants or valuers."—*Daily News*.

"It is the act of parliament so simplified and explained that the summary here given cannot be otherwise than a boon to landlords and tenants. A more complete volume never came under our notice."—*Worcester Herald*.

"Mr. Bund has placed the agricultural world under a debt of obligation by the opportune publication of a commentary on the law of compensation for unexhausted improvements. The work is designed for popular use; it is intended to show in what position recent legislation has placed both landlords and tenants, and this end it effectually attains."—*Berrows' Worcester Journal*.

"This is a simple and useful summary of the provisions of the present statutes on this subject, with orders and forms for practical application."—*Standard*.

"It contains clear statements and explanations which will enable any farmer or landowner to understand precisely what are the conditions at present existing as to compensation for improvements by law and by custom of the country."—*Chamber of Agriculture Journal*.

"Mr. Bund's book is a useful work for land agents, and is especially interesting when

treating of the customs in various localities."—*Estates Gazette*.

"The book is, on the whole, a very useful one, its author having wisely kept it clear of needless technicalities, as he intends it not for lawyers but for laymen, that is, for landowners, farmers, land stewards and the like. All who have any interest in landed property may read it to advantage."—*Land and Water*.

"We hope that this little book may realize the anticipations of its author, and be of service to the classes for whose use it has been specially designed."—*The Field*.

"Mr. Willis Bund has compressed into a simple and convenient form, the information needful for understanding the bearing of the Agricultural Holdings Act on the law of compensation for unexhausted improvements."—*Saturday Review*.

"Mr. Bund has made plain to all ordinary understandings the whole bearing, interpretation and effect of the new law. All who are interested, on either side, should become possessed of this most lucid and valuable treatise."—*Worcester Chronicle*.

"This is a popular exposition of the Agricultural Holdings Act of last session, and will be valuable to those interested in this important matter. We may congratulate Mr. Bund on having laid the law down very clearly to the lay mind."—*Gardeners' Chronicle*.



## Higgins's Digest of Patent Cases.

Svo., 21s. cloth.

A DIGEST of the REPORTED CASES relating to the Law and Practice of LETTERS PATENT for INVENTIONS, decided from the passing of the Statute of Monopolies to the present time. By CLEMENT HIGGINS, M.A., F.C.S., of the Inner Temple, Barrister at Law.

"Mr. Higgins tells us in his preface that no opinion is expressed upon the cases digested, and no attempt is made to reconcile conflicting decisions. Such an attempt would have failed, and have been out of place in a digest. Mr. Higgins's work will be useful as a work of reference. Upwards of 700 cases are digested: and, besides a table of contents, there is a full index to the subject matter; and that index, which greatly enhances the value of the book, must have cost the author much time, labour and thought."—*Law Journal*.

"This is essentially," says Mr. Higgins in his preface, 'a book of reference.' It remains to be added whether the compilation is reliable and exhaustive. It is only fair to say that we think it is; and we will add, that the arrangement of subject matter (chronological under each heading, the date, and double or even treble references being appended to every decision), and the neat and carefully executed index (which is decidedly above the average) are such as no reader of 'essentially a book of reference' could quarrel with."—*Solicitors' Journal*.

"On the whole Mr. Higgins's work has been well accomplished. It has ably fulfilled its object by supplying a reliable and authentic summary of the reputed patent law cases decided in English courts of law and equity, while presenting a complete history of legal doctrine on the points of law and practice relating to its subject."—*Irish Law Times*.

"Mr. Higgins has, with wonderful and accurate research, produced a work which is much needed, since we have no collection of patent cases which does not terminate years ago. There is not any branch of the law in which analysis is so likely to prove the safe mode of exposition as the patent law. The work is well arranged, and gives brief, though comprehensive, statements of the various cases decided. We consider, too, if an inventor furnishes himself with this Digest and a little treatise on the law of patents, he will be able

to be as much his own patent lawyer as it is safe to be."—*Scientific and Literary Review*.

"Mr. Higgins's object has been to supply a reliable and exhaustive summary of the reported patent cases decided in English courts of law and equity, and this object he appears to have attained. The classification is excellent, being, as Mr. Higgins very truly remarks, that which naturally suggests itself from the practical working of patent law rights. The lucid style in which Mr. Higgins has written his Digest will not fail to recommend it to all who may consult his book; and the very copious index, together with the table of cases, will render the work especially valuable to professional men."—*Mining Journal*.

"The appearance of Mr. Higgins's Digest is exceedingly opportune. The plan of the work is definite and simple. We consider that Mr. Higgins, in the production of this work, has met a long felt demand. Not merely the legal profession and patent agents, but patentees, actual or intending inventors, manufacturers and their scientific advisers, will find the Digest an invaluable book of reference."—*Chemical News*.

"The arrangement and condensation of the main principles and facts of the cases here digested render the work invaluable in the way of reference."—*Standard*.

"The work constitutes a step in the right direction, and is likely to prove of much service as a guide, a by no means immaterial point in its favour being that it includes a number of comparatively recent cases."—*Engineer*.

"Mr. Higgins has given us, in a very natural and convenient order, the recorded decisions of the courts of law and equity in every branch of this great and difficult subject. From these decisions the state of the law upon any point connected with patents may be deduced. In fine, we must pronounce the book as invaluable to all whom it may concern."—*Quarterly Journal of Science*.

## Baylis's Law of Domestic Servants.—By Monckton.

Foolscap Svo., 2s. cloth.

THE RIGHTS, DUTIES and RELATIONS of DOMESTIC SERVANTS and their MASTERS AND MISTRESSES. With a short Account of the Servants' Institutions, &c. and their advantages. By T. HENRY BAYLIS, M.A., of Brasenose College, Oxford, Barrister at Law of the Inner Temple. Fourth Edition, with considerable Additions, by EDWARD P. MONCKTON, Esq., B.A., of Trinity College, Cambridge, Barrister at Law of the Inner Temple.

"An excellent manual of the subject of which it treats."—*Law Times*.

"This little work thoroughly deserves the success it has gained. It contains in a small

compass the law on the important subject to which it relates. This volume will be found a convenient handbook to the leading authorities on the subject."—*Solicitors' Journal*.



## Davis's County Courts Practice and Evidence.

Fifth Edition. 8vo., 38s. cloth.

THE PRACTICE AND EVIDENCE IN ACTIONS IN THE COUNTY COURTS. By JAMES EDWARD DAVIS, of the Middle Temple, Esq., Barrister at Law. Fifth Edition.

\*\*\* *This is the only work on the County Courts which gives Forms of Plaints and treats fully of the Law and Evidence in Actions and other Proceedings in these Courts.*

"We are glad to learn that Mr. Davis's work has been favourably received. The recent decisions have been important and required noting up. This has been Mr. Davis's task in the edition before us; we recently had occasion to cite his reading of *Horsenail v. Brace* on the subject of imprisonment for debt, and that is a good specimen of the annotations in the last edition. We believe Mr. Davis's is the best and newest work on County Court Practice."—*Law Times*.

"Mr. Davis's works are all conspicuous for clearness and accuracy. He has been called upon to publish a fifth edition of his County Courts by reason of the sale of the former one. This is a practical test of the utility of the work, which is of more value than any theoretical criticism. The Index, List of Cases and of Statutes are most complete and elaborate, and every assistance in the way of distinctness and variety of type is given to the reader. The present edition will fully sustain the well-earned reputation of the work. The

excellence of the work consists in the very marvellous amount which it does include. The Indices show that more than 3,000 cases are quoted in it, and about 1,000 sections of statutes. About 200 forms are also given."—*Solicitors' Journal*.

"Upon looking into this fifth edition we find that the author has carefully noted and incorporated all the recent decisions of the Courts of Westminster on matters directly and indirectly affecting the County Courts. Some idea of the magnitude of Mr. Davis's labours may be formed from the fact that his List of Cases cited fills thirty-one pages of two columns each. There is an excellent Index to the book and a Table of Statutes, Rules and Forms arranged on a novel and very skilful plan. It is hardly necessary for us to sum up in favour of a book which is so popular that the several editions of it pass rapidly out of print. All we need say is, that the verdict of the purchasing public has our entire approbation."—*Law Journal*.

### *Supplement to Davis's County Courts.*

## County Court Rules and Acts of 1875.

Just ready, uniform with the above, 8vo., cloth.

THE COUNTY COURT RULES, 1875, with Forms and Scales of Costs and Fees; together with the County Courts Act, 1875, the Agricultural Holdings Act, 1875, and the Provisions of the Friendly Societies Act, 1875, and of other recent Statutes affecting the Jurisdiction of the County Courts. Forming a SUPPLEMENT TO DAVIS'S COUNTY COURT PRACTICE AND EVIDENCE, as also to the same author's Practice in Equity, Bankruptcy, &c.

\*\*\* *This edition of the County Court Rules and Acts of 1875 has been so arranged as to render it complete in itself, and being also furnished with an exhaustive Index, as well as references to Davis's Practice in the County Courts, 2 vols., it brings down the last published edition of the same (the Fifth) to the present time.*

## Davis's Equity, Bankruptcy, &c. in the County Courts.

8vo. 18s. cloth.

The JURISDICTION and PRACTICE of the COUNTY COURTS in EQUITY, ADMIRALTY, PROBATE and ADMINISTRATION CASES, and in BANKRUPTCY. By J. E. DAVIS, of the Middle Temple, Esq., Barrister at Law.

\*\*\* *This work, although issued separately, forms a Supplementary or Second Volume to Davis's County Courts Practice and Evidence in Actions.*

## Fulton's Manual of Constitutional History.

Post 8vo., 7s. 6d. cloth.

A MANUAL OF CONSTITUTIONAL HISTORY, founded upon the Works of Hallam, Creasy, May and Broom, comprising all the fundamental principles and the leading cases in Constitutional Law. By FORREST FULTON, LL.B., B.A., University of London, and of the Middle Temple, Esq., Barrister-at-Law.

"Copious use has been made by Mr. Fulton of all the leading authorities on the subject, and he writes clearly and intelligibly. There is a full and carefully prepared index."—*Law Times*.

"We can fairly say the book is well done, and the object of aiding the student in his first entry on the wide field of Constitutional Law and History is attained"—*The Law*.

"Mr. Fulton appears to have taken great pains to make it thoroughly useful and reliable."—*Civil Service Gazette*.

"For practical information and for student's purposes Mr. Fulton's is by far the best Manual of Constitutional History with which we are acquainted."—*Irish Law Times*.

"So far as it goes, it is not without merit. The former part is written with care and clearness. Notwithstanding defects, we think Mr. Fulton's a fairly good elementary manual."—*Solicitors' Journal*.

"The general reader will be much pleased

with the chapters on the privileges of parliament."—*Standard*.

"A good reference book, as well as a book that ought to be read in the first instance straight through."—*John Bull*.

"The author has spared no pains, and has succeeded in the somewhat difficult task of presenting the results of a wide range of reading in a well-digested form. Mr. Fulton may be congratulated upon the very successful accomplishment of a by no means easy task: his book supplies a felt want."—*Public Opinion*.

"Mr. Fulton has compiled a Manual of Constitutional History to aid beginners in their studies: the extracts he has given from his authorities appear to be well chosen."—*Daily News*.

"It is useless for an ordinary student simply to read a ponderous work on the Constitution, unless at the same time he is able to assimilate its results. Mr. Fulton has recognized this difficulty, and the result is the truly admirable little manual to which we call the attention of our readers."—*Canadian News*.

## Collier's Law of Contributories.

Post 8vo., 9s. cloth.

A TREATISE ON THE LAW OF CONTRIBUTORIES in the Winding-up of Joint Stock Companies. By ROBERT COLLIER, of the Inner Temple, Esq., Barrister at Law.

"Mr. Collier has collected with praiseworthy industry the cases relating to the subject of his work, and he has arranged them with considerable skill. Mr. Collier's general arrangement appears to have been carefully devised, and is probably as neat as the nature of the subject admits of. It is impossible after a perusal of the book to doubt that the author has honestly studied the subject, and has not contented himself with the practice of piecing together head notes from reports."—*Solicitors' Journal*.

"We invite the attention of the profession to its merits as a collection and Digest of the Cases relating to the liability of persons to be made contributories. Mr. Collier has not shrunk from pointing out his views as to the reconcilability of apparently conflicting decisions or as to many points on which the law is still unsettled; without making any quotations for the purpose of illustrating the above remarks, we think we are justified in commending this treatise to the favourable consideration of the profession."—*Law Journal*.

"In these days of unlimited speculation the legal position of contributories must be a matter of personal interest to a great many people; and Mr. Robert Collier's treatise on the subject deserves attention beyond the limits of his profession. The chapter showing the modes in which liability may be incurred is full of instructive warning."—*Saturday Review*.

"This work he has done very thoroughly, and the scope of the treatise is far wider than the author has laid down in his preface. There is probably no branch of the law of contracts more difficult and intricate than this of contribution, and the cases quoted by Mr. Collier

are treated with great discrimination, so that the book enables a man who has not made the subject a matter of special study to advise with comparatively small trouble to himself. This is the advantage of writers devoting themselves to what we may call the byeways of the law—a dangerous track for the weakly, the infirm, or the unaccustomed, but light and easy enough with such a guide as Mr. Collier. Laymen may also learn from the work the exact liability which they incur before entering into contracts, and thus avoid the chance of ruin."—*Irish Law Times*.

"The work is clearly and vigorously written, and Mr. Collier has managed to put a great deal of information into a small space. The book will be found to be a useful addition to the list of treatises on a branch of the law which has grown immensely since 1862."—*Athenæum*.

"Mr. Collier has carried out his intention, and has produced a work of great utility."—*The Law*.

"The perplexity of the laws relating to personal liability, naturally suggests a collection of precedents and cases which may be considered settled, and of direct application to the generality of cases; and this the author appears to have done with success, as far as we can judge of the merit of the work."—*Standard*.

"This is a valuable legal work, which should be in the hands of all speculators in the formation of new ventures in the shape of joint stock companies and associations. It is important that such persons should know the exact position they assume, in a legal point of view, and this they will be enabled to do by a perusal of this work, written by a barrister of some repute."—*Bullionist*.



**Sir T. Erskine May's Parliamentary Practice.—7th Edit.**

One very thick volume 8vo., 40s. cloth.

A TREATISE on the LAW, PRIVILEGES, PROCEEDINGS and USAGE of PARLIAMENT. By Sir THOMAS ERSKINE MAY, D.C.L., K.C.B., Clerk of the House of Commons and Benchler of the Middle Temple. Seventh Edition, Revised and Enlarged.

CONTENTS :—Book I. Constitution, Powers and Privileges of Parliament.—Book II. Practice and Proceedings in Parliament.—Book III. The Manner of Passing Private Bills, with the Standing Orders in both Houses, and the most recent Precedents.

"A work, which has risen from the position of a text book into that of an authority, would seem to a considerable extent to have passed out of the range of criticism. It is quite unnecessary to point out the excellent arrangement, accuracy and completeness which long ago rendered Sir T. E. May's treatise the standard work on the law of Parliament. Not only are points of Parliamentary law discussed or decided since the publication of the last edition duly noticed in their places, but the matter thus added is well digested, tersely presented and carefully interwoven with the text."—*Solicitors Journal*.

"Fifty pages of new matter have been added by Sir Thomas May in his seventh edition, thus comprising every alteration in the law and practice of Parliament, and all material precedents relating to public and private business since the publication of the sixth edition. We need make no comment upon the value of the work. It is an accepted authority and is undeniably the law of Parliament. It has been brought up to the latest date, and should be in the hands of every one engaged in Parliamentary life, whether as a lawyer or as a senator."—*Law Times*.

**Underhill's Law of Torts or Wrongs.**

Post 8vo., 6s. cloth.

A SUMMARY OF THE LAW OF TORTS OR WRONGS INDEPENDENT OF CONTRACT, for the use of Students and Practitioners. By ARTHUR UNDERHILL, B.A., of Lincoln's Inn, Esq., Barrister at Law.

"Mr. Underhill states that his chief aim has been to write for the student, but many who have passed their pupilage and are now enjoying the advantages of considerable practice, may consult these pages with advantage. Mr. Underhill places before his readers broad principles or rules of law, which he illustrates by cases falling under them, so that they are placed before the mind in a manner most impressive. Exceptions are not omitted, and the rules are, when necessary, elucidated by sub-rules. The plan is a good one, and has been honestly carried out, and a good index facilitates reference."—*Justice of the Peace*.

"Mr. Underhill's ability in making a clear digest of the subject treated of in this volume is conspicuous. Many works would have to be consulted for the information here concisely given, so that practitioners as well as students will find it useful."—*News of the World*.

"Mr. Underhill, in his work, gives us an example of how clearly and concisely so difficult and intricate a branch of Law as that of Torts can be set out. He has compressed into a small work a vast amount of information, and his book is so clearly written that it is easily comprehensible. To the Law Student, for whom it is more particularly written, it may be recommended

both for its simplicity and accuracy."—*Morning Advertiser*.

"We strongly recommend the manual to students of both branches of the profession."—*Preliminary Examination Journal*.

"A work which will, we think, be found instructive to the beginner, and a useful handbook for the practitioner in Local Courts."—*Public Opinion*.

"He has set forth the elements of the law with clearness and accuracy. The little work of Mr. Underhill is inexpensive, and may be generally relied on."—*Law Times*.

"A handbook of the law affecting wrongs independent of contract."—*The Echo*.

"Mr. Underhill has here supplied a want long felt in legal treatises, and has entirely, by the present excellent volume, superseded the antiquated work of Mr. Addison, which was totally unfit for practical purposes."—*Standard*.

"This is a very useful little book on the law of Torts. The book is intended for the student who desires to have principles before entering into particulars, and we know no book on the subject so well adapted for the purpose."—*Law Examination Reporter*.

**Kelly's Conveyancing Draftsman.**

Post 8vo., 6s. cloth.

THE DRAFTSMAN: containing a Collection of Concise Precedents and Forms in Conveyancing; with Introductory Observations and Practical Notes. By JAMES HENRY KELLY.

"This is a thoroughly practical book, designed for the solicitor and the student. Mr. Kelly has rightly conceived the duties of a conveyancer; and his short introductory recommendations should be attentively considered by all who are anxious to become safe draftsmen. The author gives a few forms under each heading, confining himself to such as are likely to be of everyday use in the office. This volume ought to be popular, as it combines law and practice."—*Law Times*.

"Mr. Kelly's object is to give a few precedents of each of those instruments which are most commonly required in a solicitor's office, and for which precedents are not always to be met with in the ordinary books on conveyancing. The idea is a good one, and the precedents contained in the

book are, generally speaking, of the character contemplated by the author's design. We have been favourably impressed with a perusal of several of the precedents in this book; and practitioners who have already adopted forms of their own will probably find it advantageous to collate them with those given by Mr. Kelly. Each set of precedents is prefaced by a few terse and practical observations."—*Solicitors' Journal*.

"Such statements of law and facts as are contained in the work are accurate."—*Law Journal*.

"It contains matter not found in the more ambitious works on conveyancing, and we venture to think that the student will find it a useful supplement to his reading on the subject of conveyancing."—*Law Examination Journal*.



**Shelford's Companies.—2nd Edit. by Pitcairn and Latham.**

8vo., 21s. cloth.

**SHELFORD'S LAW OF JOINT STOCK COMPANIES;** containing a Digest of the Case Law on that subject; the Companies Acts, 1862, 1867, and other Acts relating to Joint Stock Companies; the Orders made under those Acts to regulate Proceedings in the Court of Chancery and County Courts, and Notes of all Cases interpreting the above Acts and Orders. Second Edition, much enlarged, and bringing the Statutes and Cases down to the date of publication. By DAVID PITCAIRN, M.A., Fellow of Magdalen College, Oxford, and of Lincoln's Inn, Barrister at Law; and FRANCIS LAW LATHAM, B.A., Oxon, of the Inner Temple, Barrister-at-Law, author of "A Treatise on the Law of Window Lights."

"We may at once state that, in our opinion, the merits of the work are very great, and we confidently expect that it will be at least for the present the standard manual of joint stock company law. That great learning and research have been expended by Mr. Pitcairn no one can doubt who reads only a few pages of the book; the result of each case which has any bearing upon the subject under discussion is very lucidly and accurately stated. We heartily congratulate him on the appearance of this work, for which we anticipate a great success. There is hardly any portion of the law at the present day so important as that which relates to joint stock companies, and that this work will be the standard authority on the subject we have not the shadow of a doubt."—*Law Journal*.

"After a careful examination of this work we are bound to say that we know of no other which surpasses it in two all-important attributes of a law book: first, a clear conception on the part of the author of what he intends to do and how he intends to treat his subject; and secondly, a consistent, laborious and intelligent adherence to his proposed order and method. All decisions are noted and epitomised in their proper places, the practice-decisions in the notes to Acts and Rules, and the remainder in the

introductory account or digest. In the digest Mr. Pitcairn goes into everything with original research, and nothing seems to escape him. It is enough for us that Mr. Pitcairn's performance is able and exhaustive. Nothing is omitted, and everything is noted at the proper place. In conclusion we have great pleasure in recommending this edition to the practitioner. Whoever possesses it, and keeps it noted up, will be armed on all parts and points of the law of joint stock companies."—*Solicitors' Journal*.

"Although nominally a second edition of Mr. Shelford's treatise, it is in reality an original work, the form and arrangement adopted by Mr. Shelford have been changed and, we think, improved by Mr. Pitcairn. A full and accurate index also adds to the value of the work, the merits of which, we can have no doubt, will be fully recognized by the profession."—*Law Magazine*.

"This book has always been the *vade mecum* on company law, and will, apparently, long continue to occupy that position. It is perhaps even more useful to the legal practitioner than to the man of business, but still it is the best source of information to which the latter can go."—*Financier and Money Market Review*.

**Bainbridge's Law of Mines and Minerals.—3rd Edit.**

8vo., 30s. cloth.

**A TREATISE on the LAW of MINES and MINERALS.** By WILLIAM BAINBRIDGE, Esq., F.G.S., of the Inner Temple, Barrister at Law. Third Edition, carefully revised, and much enlarged by additional matter relating to manorial rights—rights of way and water and other mining easements—the sale of mines and shares—the construction of leases—cost book and general partnerships—injuries from undermining and inundations—barriers and working out of bounds. With an Appendix of Forms and Customs and a Glossary of English Mining Terms.

"When a work has reached three editions, criticism as to its practical value is superfluous. We believe that this work was the first published in England on the special subject of mining law—others have since been published—but we see no reason in looking at the volume before us to believe that it has yet been superseded."—*Law Magazine*.

"Mr. Bainbridge was we believe the first to collect and publish, in a separate treatise, the Law of Mines and Minerals, and the work was so well done that his volume at once took its place in the law library as the text book on the subject to which it was devoted. This work must be already familiar to all readers whose

practice brings them in any manner in connection with mines or mining, and they well know its value. We can only say of this new edition that it is in all respects worthy of its predecessors."—*Law Times*.

"It would be entirely superfluous to attempt a general review of a work which has for so long a period occupied the position of the standard work on this important subject. Those only who, by the nature of their practice, have learned to lean upon Mr. Bainbridge as on a solid staff, can appreciate the deep research, the admirable method, and the graceful style of this model treatise."—*Law Journal*.

## Trower's Prevalence of Equity.

Just ready, 8vo., cloth.

A MANUAL OF THE PREVALENCE OF EQUITY under Section 25 of the Judicature Act, 1873, amended by the Judicature Act, 1875. By CHARLES FRANCIS TROWER, Esq., M.A., of the Middle Temple, Barrister at Law, late Fellow of Exeter College, and Vinerian Law Scholar, Oxford; Author of "The Law of Debtor and Creditor," "The Law of the Building of Churches and Divisions of Parishes," &c.

## Fawcett's Law of Landlord and Tenant.

8vo., 14s. cloth.

A COMPENDIUM of the LAW of LANDLORD and TENANT. By WILLIAM MITCHELL FAWCETT, of Lincoln's Inn, Esq., Barrister at Law.

"It never wanders from the point, and being intended not for students of the law, but for lessors and lessees and their immediate advisers, wisely avoids historical disquisitions, and uses language as untechnical as the subject admits. It may safely be assumed to contain information on all the ordinary questions which either contracting party may require to be answered."—*Law Journal*.

"The author has succeeded in compressing the whole of his subject within the reasonable compass of 373 pages. It may roughly be said of Mr. Fawcett's work, that it is statutory throughout, in accordance with the predominant character of the law at the present day; and Mr. Fawcett takes advantage of this characteristic of modern law to impart to his compendium a degree of *authenticity* which greatly enhances its value as a convenient medium of reference, for he has stated the law in the very words of the authorities. We have discovered plain utility to be the aim and end of Mr. Fawcett's treatise."—*Law Magazine*.

"The amount of information compressed into the book is very large. The plan of the book is extremely good, and the arrangement adopted has

enabled the author to put together in one place the whole law on any particular branch of the subject, and to avoid repetitions. Thus not only is it easy to find what the author has to say on any particular point, but when we have found a reference to it in one place, we may be satisfied that we have found all the book contains upon the point. In this respect, though probably from its smaller size it must contain less information than Woodfall, it will be found far more convenient for ordinary use than that treatise."—*Solicitors' Journal*.

"He contents himself with a plain statement of the existing law, prudently omitting all matters of merely historical interest and topics collateral to the special subjects. Above all, it has been his purpose to state the law in the language of the authorities, presenting the principles enunciated in the very words of the judges. Another excellent feature is a concise summary of the effect of each enactment in the marginal notes. It will be seen from this that the book is thoroughly practical, and, as such, will doubtless find a favorable reception from the profession."—*Law Times*.

## Grant's Bankers and Banking Companies.—Third Edit.

By R. A. FISHER.

8vo., 28s. cloth.

GRANT'S TREATISE ON THE LAW RELATING TO BANKERS AND BANKING COMPANIES. Third Edition. With an Appendix of the Statutes. By R. A. FISHER, Esq., Judge of County Courts.

"Eight years sufficed to exhaust the second edition of this valuable and standard work, we need only now notice the improvements which have been made. We have once more looked through the work, and recognize in it the sterling merits which have acquired for it the high position which it holds in standard legal literature. Mr. Fisher has annotated all the recent cases."—*Law Times*.

"Prior to the publication of Mr. Grant's work on this subject, no treatise containing the required information existed; and, since its appearance, such important alterations respecting banks and bankers have been introduced, that the work needed in many parts entire reconstruction and arrangement. The last two editions have been entrusted to the care of the gentleman whose name is attached to the work. Mr. Fisher's name is in itself a guarantee that his duties of editor have been ably and conscientiously performed. In this respect we can assure those interested in the

subject of this book, that they will in no respect be disappointed; obsolete and immaterial matter has been eliminated, and the present edition presents the existing law of bankers and banking companies as it at present exists."—*Justice of the Peace*.

"It is eight years since Mr. Fisher published the second edition of this practical book, and it now appears again re-edited by the same hand. Its steady sale shows that the public for whom it is written have recognized the kindness that was meant them, and makes a more elaborate recommendation superfluous. We must add, however, that the additions to the work, and the alterations in it which Mr. Fisher has made, are, as far as we can judge, real improvements, and that he has not failed to follow out the recent cases. The book used with care will no doubt be of great practical service to bankers and their legal advisers."—*Solicitors' Journal*.



## De Colyar's Law of Guarantees.

8vo., 14s. cloth.

A TREATISE ON THE LAW OF GUARANTEES AND OF PRINCIPAL AND SURETY. By HENRY A. DE COLYAR, of the Middle Temple, Esq., Barrister at Law.

"He has so treated the subject that, after careful examination, we are constrained to commend his book alike for its fulness and for its brevity. The result is a volume every practitioner should place upon his shelves, and which he cannot consult without advantage when settling a form or giving an opinion upon questions between guarantor and guarantee. Mr. Colyar's work contains internal evidence that he is quite at home with his subject. His book has the great merit of thoroughness. Hence its present value, and hence we venture to predict will be its enduring reputation."—*Law Times*.

"The whole work displays great care in its

production; it is clear in its statements of the law, and the result of the many authorities collected is stated with an intelligent appreciation of the subject in hand."—*Justice of the Peace*.

"This book has been compiled with very considerable care and pains, and we must speak highly of the praiseworthy diligence and assiduity with which the author has endeavoured to reason out the subject. This treatise will prove useful as a manual on a subject not hitherto fully treated of."—*Solicitors' Journal*.

"The volume before us is a very clear and trustworthy statement of the present bearing and scope of the law on all such questions."—*Standard*.

## Nasmith's Institutes.

Post 8vo., 12s. cloth.

THE INSTITUTES of ENGLISH PUBLIC LAW, embracing an Outline of General Jurisprudence, the Development of the British Constitution, Public International Law, and the Public Municipal Law of England. By DAVID NASMITH, Esq., LL.B., of the Middle Temple, Barrister at Law, Author of "The Chronometrical Chart of the History of England," &c.; Joint Translator of Ortolan's "History of Roman Law."

"We believe the plan of the book is the right one. We have only to add that we know of no book which, in our opinion, might more

fitly, or perhaps so fitly, be placed in the hands of a beginner in the study of law."—*Law Magazine*.

2 vols. or books, post 8vo., 21s. cloth.

THE INSTITUTES of ENGLISH PRIVATE LAW, embracing an Outline of the Substantive Branch of the Law of Persons and Things. Adapted to the New Procedure. By DAVID NASMITH, LL.B., of the Middle Temple, Barrister at Law, Author of "Institutes of English Public Law," &c., &c.

"In his account of tenures, titles and estates Mr. Nasmith is particularly happy, and we think his second volume, treating of things, is, for its size, more complete and clear in its exposition of the law of property than any manual with which we are acquainted. The plan and execution of the work in its material and essential parts are excellent."—*Irish Law Times*.

"This attempt is made in the right spirit, and that is something, nor is the execution always so much below the intention, as with parts we have felt bound to criticise. The Real Property Law, for instance, where Mr. Nasmith gives himself more room, seems very fairly done."—*Saturday Review*.

"These volumes must be judged as a purely elementary treatise, and from this point of view the author is to be congratulated on his success in condensing his subject into such narrow limits without being obscure and without, as far as we can judge, making any very serious omissions."—*Public Opinion*.

"It embraces within little space a description of the several branches of our jurisprudence into which the writer has found it advisable to divide it. The great feature of the

work is its systematic order; it crushes the subject into shape, and covers it with a coating of technical description quite suitable for the digestion of students accustomed to legal terms."—*Economist*.

"Great credit is due to him for the painstaking care with which he has prepared the volumes before us. As a scientific text-book it well deserves the attention of the student" —*The Scotsman*.

"This book will be like its predecessor, not only a great boon to the student of law, but will also assist the reading of all who desire to add some acquaintance with English law to their stock of general information."—*The Record*.

"Mr. Nasmith's 'Institutes of Private Law' is a very careful and popular compilation."—*Daily News*.

"In these volumes, dedicated to the Lord Chancellor, Mr. Nasmith gives an elementary, though detailed, exposition of the substantive branch of English private law, the subject being divided into two books, which treat respectively of the law of persons and the law of things. Altogether the treatise is a capital one."—*Standard*.



## Hunter's Suit in Equity.—Sixth Edition.

Post 8vo., 12s. cloth.

AN ELEMENTARY VIEW of the PROCEEDINGS in a SUIT in EQUITY. With an Appendix of Forms. By SYLVESTER J. HUNTER, B.A., of Lincoln's Inn, Barrister at Law. Sixth Edition. By G. W. LAWRENCE, M.A., of Lincoln's Inn, Barrister at Law.

"This book is so very well known, and has proved so extremely useful to law students and practitioners, that we should only repeat what is familiar if we said anything in its praise. Edition after edition has been issued as changes in the law have necessitated it, and Mr. Lawrence now sends the work forth annotated with all recent cases requiring notice to illustrate the text."—*Law Times*.

"There can be no better test of the value of this book than the fact that the sixth edition is now before the public. The first was published in 1858, so that it has enjoyed the good fortune falling to very few legal works of passing through six editions in fifteen years. The fault which is almost inevitable as a book advances in editions, of quoting too many decisions, has been successfully avoided, so that a student will find this edition as suitable to his wants as was the first edition."—*Law Magazine*.

"What greater testimony to the value of a book can we put forward than the bare fact that in

fifteen years it has run through six editions, and that only two years and some few months have elapsed between the publications of the last two editions? 'Hunter's Suit in Equity' is a work that every student for the Chancery bar must read, and its popularity is therefore readily explained. The new edition contains such alterations in the text as have been rendered necessary by the Court of Chancery Funds Act, 1872, and the rules and orders thereunder. The editor further states that the whole work has been carefully revised, proper attention being paid to the decisions of the court since the appearance of the fifth edition."—*Law Journal*.

"We have so often noticed previous editions of this useful work that it appears to be only necessary to say of this edition that many recent decisions have been noted, and the text has been adapted to the alterations in practice and procedure introduced by the Court of Chancery Funds Act, 1872."—*Solicitors' Journal*.

## Hunt's Boundaries, Fences and Foreshores.—2nd Edit.

Post 8vo., 12s. cloth.

A TREATISE on the LAW relating to BOUNDARIES and FENCES and to the Rights of Property on the Sea Shore and in the Beds of Public Rivers and other Waters. Second Edition. By ARTHUR JOSEPH HUNT, Esq., of the Inner Temple, Barrister at Law.

"It speaks well for this book that it has so soon passed into a second edition. That its utility has been appreciated is shown by its success. Mr. Hunt has availed himself of the opportunity of a second edition to note up all the cases to this time, and to extend considerably some of the chapters, especially that which treats of rights of property on the sea shore and the subjects of sea walls and commissions of sewers."—*Law Times*.

"There are few more fertile sources of litigation than those dealt with in Mr. Hunt's valuable book. It is sufficient here to say that the volume ought to have a larger circulation than ordinarily belongs to law books, that it ought to be found in every country gentleman's library, that the cases are brought down to the latest date, and that it is carefully prepared, clearly

written, and well edited."—*Law Magazine*.

"Mr. Hunt chose a good subject for a separate treatise on Boundaries and Fences and Rights to the Seashore, and we are not surprised to find that a second edition of his book has been called for. The present edition contains much new matter. The chapter especially which treats on rights of property on the seashore, has been greatly extended. Additions have been also made to the chapters relating to the fencing of the property of mine owners and railway companies. All the cases which have been decided since the work first appeared have been introduced in their proper places. Thus it will be seen this new edition has a considerably enhanced value."—*Solicitors' Journal*.

## Ortolan's Roman Law, translated by Prichard & Nasmith.

8vo., 28s. cloth.

THE HISTORY of ROMAN LAW, from the Text of Ortolan's *Histoire de la Législation Romaine et Généralisation du Droit* (Edition of 1870). Translated, with the Author's permission, and Supplemented by a Chronometrical Chart of Roman History. By ILLUDUS T. PRICHARD, Esq., F.S.S., and DAVID NASMITH, LL.B., Barristers at Law.

"We know of no work, which, in our opinion, exhibits so perfect a model of what a text-book ought to be. Of the translation before us, it is enough to say, that it is a faithful representation of the original."—*Law Magazine*.

"This translation, from its great merit, deserves a warm reception from all who desire to be acquainted with the history and elements of Roman law, or have its interests as a necessary part of sound legal education at heart. With regard to that great work it is enough to say, that English writers have been continually in the habit of doing piecemeal what Messrs. Prichard and Nasmith have done wholesale. Hitherto we have had but gold-dust from the mine; now we are fortunate in obtaining a nugget. Mr. Nasmith is already known as the designer of a chart of the history of England, which has been generally

approved, and bids fairly for extensive adoption."—*Law Journal*.

"We are extremely glad to welcome the appearance of a translation of any of the works of M. Ortolan, and the history and generalization of Roman law, which are now presented to us in English, are perhaps the most useful books that could be offered at the present time to students of the Roman law. The utility of Roman law, as an instrument of legal education, is now generally admitted. The English of the book is unusually free from foreign idioms which so often disfigure translations. The book itself we strongly recommend to all who are interested in Roman law, jurisprudence or history, and who are not sufficiently familiar with French, to be able to read the original with ease."—*Solicitors' Journal*.



## Rouse's Conveyancer.—3rd Edit. with Supplement.

Two vols. 8vo., 30s. cloth.

The **PRACTICAL CONVEYANCER**, giving, in a mode combining facility of reference with general utility, upwards of Four Hundred Precedents of Conveyances, Mortgages and Leases, Settlements, and Miscellaneous Forms, with (not in previous editions) the Law and numerous Outline Forms and Clauses of **WILLS** and Abstracts of Statutes affecting Real Property, Conveyancing Memoranda, &c. By **ROLLA ROUSE, Esq.**, of the Middle Temple, Barrister at Law, Author of "The Practical Man," &c. Third Edition, greatly enlarged. With a Supplement, giving Abstracts of the Statutory Provisions affecting the Practice in Conveyancing; and the requisite Alterations in Forms, with some new Forms; and including a full Abstract in numbered Clauses of the Stamp Act, 1870.

THE SUPPLEMENT separately, price 1s. 6d. sewed.

"The best test of the value of a book written professedly for practical men is the practical one of the number of editions through which it passes. The fact that this well-known work has now reached its third shows that it is considered by those for whose convenience it was written to fulfil its purpose well."—*Law Magazine*.

"This is the third edition in ten years, a proof that practitioners have used and approved the precedents collected by Mr. Rouse. In this edition, which is greatly enlarged, he has for the first time introduced Precedents of Wills, extending to no less than 116 pages. We can accord unmingled praise to the conveyancing memoranda showing the practical effect of the various statutory provisions in the different parts of a deed. If the two preceding editions have been so well received, the welcome given to this one by the profession will be heartier still."—*Law Times*.

"So far as a careful perusal of Mr. Rouse's book enables us to judge of its merits, we think that as a collection of precedents of general utility in cases of common occurrence it will be found satisfactorily to stand the application of the test. The draftsman will find in the Practical Conveyancer precedents appropriate to all instruments of common occurrence, and the collection appears to be especially well supplied with those which relate to copyhold estates. In order to avoid useless repetition and also to make the precedents as simple as possible, Mr. Rouse has sketched out a number of outline drafts so as to present to the

reader a sort of bird's-eye view of each instrument and show him its form at a glance. Each paragraph in these outline forms refers, by distinguishing letters and numbers, to the clauses in full required to be inserted in the respective parts of the instrument, and which are given in a subsequent part of the work, and thus every precedent in outline is made of itself an index to the clauses which are necessary to complete the draft. In order still further to simplify the arrangement of the work, the author has adopted a plan (which seems to us fully to answer its purpose) of giving the variations which may occur in any instrument according to the natural order of its different parts."—*Law Journal*.

"That the work has found favor is proved by the fact of our now having to review a third edition. This method of skeleton precedents appears to us to be attended with important advantages. To clerks and other young hands a course of conveyancing under Mr. Rouse's auspices is, we think, calculated to prove very instructive. To the solicitor, especially the country practitioner, who has often to set his clerks to work upon drafts of no particular difficulty to the experienced practitioner, but upon which they the said clerks are not to be quite trusted alone, we think to such gentlemen Mr. Rouse's collection of Precedents is calculated to prove extremely serviceable. We repeat, in conclusion, that solicitors, especially those practising in the country, will find this a useful work."—*Solicitors' Journal*.

## Brabrook's Co-operative and Provident Societies.

12mo., 6s. cloth.

THE LAW relating to **INDUSTRIAL** and **PROVIDENT SOCIETIES**, including the Winding-up Clauses, with a Practical Introduction, Notes, and Model Rules, to which are added the Law of France on the same subject, and Remarks on Trades Unions. By **EDWARD W. BRABROOK, F.S.A.**, of Lincoln's Inn, Esq., Barrister at Law, Assistant Registrar of Friendly Societies in England.

"It may be usefully consulted by practitioners desirous of learning something more upon the subject than is to be found in works on partnership and joint stock companies. The book is thoughtfully written, and we recommend it to those who desire to learn something practical about the work which these societies are meant to do and the way in which it is to be done."—*Solicitors' Journal*.

"Mr. Brabrook's little work on these societies is opportune, and the statistics and information contained in it are valuable and interesting. There is a chapter devoted to practical advice,

in which are contained many valuable and important hints."—*Law Magazine*.

"Mr. Brabrook brings not merely official knowledge of his legal position as the barrister recently appointed to assist Mr. Tidd Pratt, Registrar of Friendly Societies in England, but the devotion of many years to a practical study of our industrial and provident institutions."—*Post*.

"The author speaks with practical experience and authority."—*Observer*.

"The clear exposition made by Mr. Brabrook in this volume supplies all the requisite information, and persons interested in the subject will do well to consult its pages."—*News of the World*.



## Rogers's Judicature Acts, 1873 and 1875.

One vol., demy 8vo., 21s. cloth.

(Dedicated, by permission, to the Lord Chancellor.)

THE LAW AND PRACTICE OF THE SUPREME COURT OF JUDICATURE. By ARUNDEL ROGERS, Esq., of the Inner Temple, Barrister at Law, Author of "The Law of Mines, Minerals and Quarries."

## Bund's Law of Salmon Fisheries.

Post 8vo., 15s. cloth.

The LAW relating to the SALMON FISHERIES of ENGLAND and WALES, as amended by the Salmon Fishery Act, 1873, with the Statutes and Cases. By J. W. WILLIS-BUND, M.A., LL.B., of Lincoln's Inn, Esquire, Barrister at Law, Vice Chairman Severn Fishery Board.

"I would wish in this place to express my approval of 'Bund's Law of Salmon Fisheries in England and Wales, with Statutes and Cases.' This work will afford great assistance to those engaged in administering the law, while it affords valuable information on the theory and practice of salmon legislation in general."—*From the Thirteenth Annual Report of Inspector Buckland on Salmon Fisheries, 1874.*

"Mr. Willis-Bund, the draughtsman of the new act, has published an important treatise on the whole of the Salmon Fishery Acts, which has already been accepted as a complete exposition of those statutes."—*From the Thirteenth Annual Report of Inspector Walpole on Salmon Fisheries, 1874.*

"Doubtless all the law will be found between his covers, and we have not been able to detect any erroneous statements. We can recommend the book as a disquisition,—it is conscientiously executed."—*Law Times.*

"Mr. Bund, whose name is so well known to all who take interest in our Salmon fisheries, has lost no time since the passing of the Act of 1873 in bringing out his work on salmon fishery law. That the book, so far as England and Wales are concerned, is a very complete and exhaustive one, no one who knows Mr. Bund's clearness and power of application will doubt. Mr. Bund has done the work

excellently well, and nothing further in this way can be desired."—*The Field.*

"This terse and useful summary gives not merely the Salmon Fishery Act of 1873, but the state of the law as left repealed and unaffected by that act, with statutes and cases arising from them. The whole subject is treated exhaustively, and in a manner most satisfactory."—*Standard.*

"There is happily a good and ample index at the end of the volume. By means of this we have tested the author on various difficult points, and we have always found his opinion sound, and his explanations clear and lucid. This volume must of necessity become a hand-book to salmon-fishers in general, and especially to boards of conservators, who will thereby be much assisted in the formation of the new boards of conservators, under the Act of 1873; also the operation of the Acts of 1861 and 1865, as amended by the Act of 1873."—*Land and Water.*

"The author of the work before us has done much to supply the shortcomings of legislation. He has brought to the subject not only a comprehensive knowledge of this branch of the law, but a practical acquaintance with its administration, and the result is a book of considerable merit."—*Public Opinion.*

## Dixon's Law of Partnership.

1 vol. 8vo., 22s. cloth.

A TREATISE on the LAW of PARTNERSHIP. By JOSEPH DIXON, of Lincoln's Inn, Esq., Barrister at Law. Editor of "Lush's Common Law Practice."

"We imagine that very few questions are likely to come before the practitioner which Mr. Dixon's book will not be found to solve. Having already passed our opinion on the way in which the work is carried out, we have only to add that the value of the book is very materially increased by an excellent marginal summary, and a very copious index."—*Law Magazine and Review.*

"Mr. Dixon has done his work well. The book is carefully and usefully prepared."—*Solicitors' Journal.*

"Mr. Dixon enters into all the conditions of partnerships at common law, and defines the rights of partners among themselves; the rights of the partnership against third persons; the rights of third persons against the partnership; and the rights and liabilities of individuals, not actually partners, but liable to be treated by third persons as partners."—*The Times.*

"We heartily recommend to practitioners and students Mr. Dixon's treatise as the best exposition of the law we have read, for the arrangement is not only artistic, but conciseness has been studied without sacrifice of clearness. He sets forth the principles upon which the law is based as well as the cases by which its application is shown. Hence it is something more than a digest, which too many law books are not: it is really an essay."—*Law Times.*

"He has evidently bestowed upon this book the same conscientious labour and painstaking industry for which we had to compliment him some months since when reviewing his edition of Lush's 'Practice of the Superior Courts of Law,' and, as a result, he has produced a clearly written and well arranged manual upon one of the most important branches of our mercantile law."—*Law Journal.*



### Robson's Bankrupt Law.—Third Edition.

Very nearly ready, 8vo., cloth.

A TREATISE ON THE LAW OF BANKRUPTCY; containing a full Exposition of the Principles and Practice of the Law, including the Alterations made by the Bankruptcy Act, 1869. With an Appendix comprising the Statutes, Rules, Orders and Forms. By GEORGE YOUNG ROBSON, Esq., of the Inner Temple, Barrister at Law. Third Edition.

### Coote's Admiralty Practice.—Second Edition.

8vo., 16s. cloth.

THE PRACTICE of the HIGH COURT of ADMIRALTY of ENGLAND: also the Practice of the Judicial Committee of Her Majesty's Most Honorable Privy Council in Admiralty Appeals, with Forms and Bills of Costs. By HENRY CHARLES COOTE, F.S.A., one of the Examiners of the High Court of Admiralty, Author of "The Practice of the Court of Probate," &c. Second Edition, almost entirely re-written, with a Supplement giving the *County Courts Jurisdiction and Practice in Admiralty*, the Act of 1868, Rules, Orders, &c.

\*\*\* This work contains every Common Form in use by the Practitioner in Admiralty, as well as every description of Bill of Costs in that Court, a feature possessed by no other work on the Practice in Admiralty.

### Mr. Justice Lush's Common Law Practice.—Third Edition by Dixon.

2 vols. 8vo., 46s. cloth.

LUSH'S PRACTICE of the SUPERIOR COURTS of COMMON LAW at WESTMINSTER, in Actions and Proceedings over which they have a common Jurisdiction: with Introductory Treatises respecting Parties to Actions; Attornies and Town Agents, their Qualifications, Rights, Duties, Privileges and Disabilities; the Mode of Suing, whether in Person or by Attorney in Formâ Pauperis, &c. &c. &c.; and an Appendix, containing the authorized Tables of Costs and Fees, Forms of Proceedings and Writs of Execution. Third Edition. By JOSEPH DIXON, of Lincoln's Inn, Esq., Barrister at Law.

### Phillips's Law of Lunacy.

Post 8vo., 18s. cloth.

THE LAW CONCERNING LUNATICS, IDIOTS and PERSONS of UNSOUND MIND. By CHARLES PALMER PHILLIPS, M.A., of Lincoln's Inn, Esq., Barrister at Law, and one of the Commissioners in Lunacy.

"Mr. C. P. Phillips has in his very complete, elaborate and useful volume presented us with an excellent view of the present law as well as the practice relating to lunacy."—*Law Magazine and Review*.

"The work is one on which the author has evidently bestowed great pains, and which not only bears the mark of great application and research, but which shows a familiarity with the subject."—*Justice of the Peace*.

## MR. BEDFORD'S STUDENTS' EXAMINATION GUIDES.

**Bedford's Intermediate Examination Guide.**

2 vols. 8vo., 14s. 6d. cloth.

The INTERMEDIATE EXAMINATION GUIDE: containing a Digest of the Examination Questions on Common Law, Conveyancing and Equity, with the Answers. By EDWARD HENSLOWE BEDFORD, Solicitor, Temple, Editor of the "Preliminary," "Intermediate" and "Final," &c.

**Bedford's Final Examination Guide to the Judicature Acts, 1873-5.**

1 vol. 8vo., 7s. 6d. cloth.

THE FINAL EXAMINATION GUIDE to the PRACTICE of the SUPREME COURT OF JUDICATURE: containing a Digest of the Final Examination Questions, with many new ones, with Answers under the Supreme Court of Judicature Acts. By EDWARD HENSLOWE BEDFORD, Solicitor, Editor of the "Preliminary," "Intermediate," and "Final," &c., &c.

"Mr. Bedford's Final Examination Guide supplies a want which will be much felt by students as to what they are to read with reference to the new practice. The Guide and Time Table will be found useful helps to students in perusing the Judicature Acts."—*Law Examination Journal*.

"Mr. Bedford's Guide to the Practice of the Supreme Court, while prepared for the use of candidates for the various law examinations, is moreover calculated to convey to others a clearer notion of the main alterations that may have been effected than might be obtained from many more pretentious treatises. The various sections, orders and rules of the acts have been here arranged under their proper

and consecutive headings in the form of question and answer, and the result is a useful and readable book, which we would recommend students to keep in view."—*Irish Law Times*.

"We have in these pages a well arranged and clear digest of the final examination questions, and many new questions, with answers, under the Supreme Court of Judicature Acts."—*Standard*.

"There are a great many dull people who cannot prepare for examination without having every conceivable question placed before them in anticipation, immediately followed by its corresponding answer. This is the object of the book and it seems to fulfil it."—*Echo*.

---

By the same Author, on a Sheet, 1s.

**A TABLE of the PRINCIPAL STEPS and TIMES in an ACTION UNDER THE SUPREME COURT OF JUDICATURE ACTS.**

"It will not only prove of service to common law and chancery clerks, but also to articulated clerks in the course of their studies."—*Law Times*.

"Mr. E. H. Bedford has prepared a third edition of his useful broadsheet, containing a Table of the principal steps and times in an ordinary action in the Supreme Court of

Judicature. This Table has been corrected so as to embrace the changes introduced by the Rules of December 1, 1875."—*Law Journal*.

"The Time Table by the same author (Mr. Bedford) presents in a conspicuous and convenient form the times allowed for taking the various steps in an action."—*Law Examination Journal*.

---

Also just published on a Sheet, 1s.

**A TABLE of the PRINCIPAL STEPS and TIMES in a CHANCERY SUIT.** By EDWARD HENSLOWE BEDFORD, Solicitor, Editor of the "Intermediate Examination Guide."

---

Just ready, in 8vo.

THE FINAL EXAMINATION GUIDE to the LAW of PROBATE and DIVORCE. By E. H. BEDFORD, Solicitor, Temple, Author of the "Final Examination Guide to the Practice of the Supreme Court of Judicature," &c., &c.



## Seaborne's Law of Vendors and Purchasers.

Post 8vo., 9s. cloth.

A CONCISE MANUAL of the LAW of VENDORS and PURCHASERS of REAL PROPERTY, with a Supplement, including the Vendor and Purchaser Act, 1874, with Notes. By HENRY SEABORNE.

*\*\*\* This work is designed to furnish Practitioners with an easy means of reference to the Statutory Enactments and Judicial Decisions regulating the transfer of Real Property, and also to bring these authorities in a compendious shape under the attention of Students.*

"The value of Mr Seaborne's work consists in its being the most concise summary yet published of one of the most important branches of the law. The student will find this book a useful introduction to a dry and difficult subject."—*Law Examination Journal*.

"The book before us contains a good deal, especially of practical information as to the course of conveyancing matters in solicitors' offices,

which may be useful to students."—*Solicitors' Journal*.

"We will do Mr. Seaborne the justice to say that we believe his work will be of some use to articulated clerks and others in solicitors' offices, who have not the opportunity or inclination to refer to the standard works from which his is compiled."—*Law Journal*.

## Clark's Digest of House of Lords Cases.

Royal 8vo., 31s. 6d. cloth.

A DIGESTED INDEX to all the REPORTS in the HOUSE of LORDS from the commencement of the Series by Dow, in 1814, to the end of the Eleven Volumes of House of Lords Cases, with references to more recent Decisions. By CHARLES CLARK, Esq., one of Her Majesty's Counsel, Reporter by Appointment to the House of Lords.

"The decisions of the supreme tribunal of this country, however authoritative in themselves, were not, until of late years, at all familiar to the great body of the legal profession; the early reports of them being in the hands of but few persons. In that tribunal, more than in any other, questions can be considered, as they have been, upon purely legal principles, freed from the letters and obstruc-

tions of mere precedent. The acknowledged eminence of the noble and learned persons by whom the decisions have been pronounced, gives them a value beyond their official authoritativeness. It is hoped that this Digest will have the effect of making the profession at large familiarly acquainted with them."—*Preliminary Notice*.

## Barry's Practice of Conveyancing.

8vo., 18s. cloth.

A TREATISE on the PRACTICE of CONVEYANCING. By W. WHITTAKER BARRY, Esq., of Lincoln's Inn, Barrister at Law, late Holder of the Studentship of the Inns of Court, and Author of "A Treatise on the Statutory Jurisdiction of the Court of Chancery."

"We feel bound to strongly recommend it to the practitioner as well as the student. The author has proved himself to be a master of the subject, for he not only gives a most valuable supply of practical suggestions, but criticises them with much ability, and we have no doubt that his criticism will meet with general approval."—*Law Magazine*.

"It contains, in a concise and readable form, the law relating to almost every point likely to arise in the ordinary every day practice of the conveyancer, with references to the various authorities and statutes to the latest date, and may be described as a manual of practical conveyancing."—*Law Journal*.

"This treatise supplies a want which has long

been felt. There has been no treatise on the Practice of Conveyancing issued for a long time past that is adequate for the present requirements. Mr. Barry's work is essentially what it professes to be, a treatise on the Practice of Conveyancing. The treatise, although capable of compression, is the production of a person of great merit and still greater promise."—*Solicitors' Journal*.

"A work the substance of which is so well known to our readers, needs no recommendation from us, for its merits are patent to all, from personal acquaintance with them. The information that the treatise so much admired may now be had in the more convenient form of a book, will suffice of itself to secure a large and eager demand for it."—*Law Times*.

## Barry's Forms in Conveyancing.

8vo., 21s. cloth.

FORMS AND PRECEDENTS IN CONVEYANCING; with Introduction and Practical Notes. By W. WHITTAKER BARRY, of Lincoln's Inn, Esq., Barrister at Law, Author of "A Treatise on the Practice of Conveyancing."



**Goldsmith's Equity.—Sixth Edition.**

Post 8vo., 18s. cloth.

**THE DOCTRINE AND PRACTICE OF EQUITY:** or a concise Outline of Proceedings in the High Court of Chancery, designed principally for the Use of Students. Sixth Edition, according to the recent Statutes and Orders. By GEO. GOLDSMITH, Esq., M.A., Barrister-at-Law.

"A well-known law student's book, the best, because the most thoroughly complete, yet simplified instructor, in the principles and practice of equity that has ever been provided for him; and that its value has been recognized by those who have made use of it is proved by this—that their commendations have carried it to a sixth edition. The principles of equity are as they were, but the practice has so changed since the publication of the first edition, that every part of this division of the work has required to be rewritten almost as often as a new edition was demanded. Of course, the size of the book has grown also, and from being, as we remember it, a very little book, to be carried in the pocket, it has become a portly volume, and this fairly represents its increased merits. Now that every student aspiring to the bar is to be examined before admission, good books for instruction in the law will be more than ever in request"—*Law Times*.

"It is difficult to know which to praise most, the excellence and dignity of the style, or the exhaustiveness of the information furnished to the reader. Mr. Goldsmith's plan corresponds to

some extent with that adopted by Mr. Haynes in his excellent 'Outlines of Equity,' but his work is more complete than that of Mr. Haynes."—*Law Examination Journal*.

"The whole work is elaborated by Mr. Goldsmith with evident care and a determination to deal with all that can come within the scope of the title. It is characterized by comprehensiveness and at the same time conciseness, by clearness of diction and attractiveness of style and avoidance of technicalities which might prove embarrassing to the student, and a close adherence to the purpose as expressed in the preface. Mr. Goldsmith's volume is marked by as much originality as well can be found in a work of its kind."—*Law Journal*.

"Altogether the author's method and his execution are alike commendable—and we are of opinion that the lawyer, who, as a student, avails himself of the primary intention of Mr. Goldsmith's work by finding in it his first equity reading book or *primer*, will afterwards verify the anticipation of the author by making of it *dilectu juvenili* or *vade mecum* in his later practice."—*Law Magazine*, 2nd notice.

**Lewis's Introduction to Equity Drafting.**

Post 8vo., 12s. cloth.

**PRINCIPLES of EQUITY DRAFTING;** with an Appendix of Forms. By HUBERT LEWIS, B.A., of the Middle Temple, Barrister at Law; Author of "Principles of Conveyancing," &c.

**Lewis's Introduction to Conveyancing.**

8vo., 18s. cloth.

**PRINCIPLES of CONVEYANCING** explained and illustrated by Concise Precedents; with an Appendix on the effect of the Transfer of Land Act in modifying and shortening Conveyances. By HUBERT LEWIS, B.A., late Scholar of Emmanuel College, Cambridge, of the Middle Temple, Barrister at Law.

**Hare on Discovery.—Second Edition.**

Post 8vo., 12s. cloth.

**A TREATISE ON THE DISCOVERY OF EVIDENCE IN THE HIGH COURT OF JUSTICE.** Being a Second Edition of A TREATISE ON THE DISCOVERY OF EVIDENCE BY BILL AND ANSWER IN EQUITY, by THOMAS HARE, of the Inner Temple, Esq., Barrister at Law. Adapted to the Procedure under the Supreme Court of Judicature Acts and Rules, 1873 and 1875, by SHERLOCK HARE, of the Inner Temple, Esq., Barrister at Law.

"We have read his work with considerable attention and interest, and we can speak in terms of cordial praise of the manner in which the new procedure has been worked into the old material. Not that the old material has been allowed to remain unimproved. In many instances necessary changes and amendments have been made, evincing a thorough appreciation of the necessities of the case on the part of the learned editor. We purposely abstain from referring to the details of the book. 'Hare on Discovery' has long been well known, it must now become better known. All the sections and orders of the new legis-

lation are referred to in the text, a synopsis of recent cases is given, and a good index completes the whole."—*Law Times*.

"The original work speedily became an authority on this subject, and has been for years a recognized text-book among the profession and the courts, and we are pleased to see that the present editor has in no way abated his care in noting up the new cases and explaining the present law and practice, so that in all essential points the present edition is a worthy successor to its predecessor."—*Irish Law Times*.



## Judicature Acts. By Locock Webb, Q.C.

1 vol. 8vo., price 21s. cloth.

THE SUPREME COURT OF JUDICATURE ACTS, 1873 and 1875, with the Rules of Court, Forms, &c.; Consolidation of those Statutes and Rules, and Practical Commentaries on the Rules of Law, the Jurisprudence and Judicature of the Supreme Court, the Practice of on Appeals to the Court and Appeals to the House of Lords. A copious Index. By LOCOCK WEBB, Esq., one of her Majesty's Counsel.

## Gaches' Town Councillors and Burgesses Manual.

Post 8vo., 7s. cloth.

THE TOWN COUNCILLORS and BURGESSES MANUAL, a Popular Digest of Municipal and Sanitary Law, with information as to Charters of Incorporation, and a Collection of useful Forms especially adapted for newly Incorporated Boroughs. By LOUIS GACHES, L.L.M., B.A., of the Inner Temple, Esq., Barrister at Law.

"Mr. Gaches undoubtedly supplies a want in popularizing the subject, and making it familiar and easily intelligible to minds not endowed with any great faculty of research."—*Law Times*.

"Mr. Gaches has drawn together within a short compass the statutory provisions relating to municipal corporations and the administration of sanitary law, and he has printed them in a

neat and convenient form. It should be added that the appendix to the work contains a large number of useful forms."—*Solicitors' Journal*.

"The object is excellent. A town councillor who reads Mr. Gaches' book will be more likely to discharge his duties efficiently than a town councillor who has not read any book on municipal and sanitary authority."—*Law Journal*.

## Kerr's Action at Law.—Third Edition.

12mo., 9s. cloth.

AN ACTION AT LAW: being an Outline of the Jurisdiction of the Superior Courts of Common Law, with an Elementary View of the Proceedings in Actions therein. By ROBERT MALCOLM KERR, Barrister at Law; now Judge of the Sheriff's Court of the City of London. Third Edition.

"There is considerable merit in both works (John William Smith's and Malcolm Kerr's); but the second (Kerr) has rather the advantage."—*Jurist*.

"Mr. Kerr's book is more full and detailed than

that of Mr. John William Smith, and is therefore better adapted for those who desire to obtain not merely a general notion but also a practical acquaintance with Common Law Procedure"—*Solicitors' Journal*.

## Tudor's Leading Cases on Real Property, &c.—2nd Edit.

One thick vol. royal 8vo., 42s. cloth.

A SELECTION OF LEADING CASES on the LAW RELATING to REAL PROPERTY, Conveyancing, and the Construction of Wills and Deeds; with Notes. By OWEN DAVIES TUDOR, Esq., of the Middle Temple, Barrister at Law. Author of "A Selection of Leading Cases in Equity." Second Edition.

"The Second Edition is now before us, and we are able to say that the same extensive knowledge and the same laborious industry as have been exhibited by Mr. Tudor on former occasions characterize this later production of his legal authorship; and it is enough at this moment to reiterate an opinion that Mr. Tudor has well maintained the high legal reputation which his standard works have achieved in all countries where the English language is spoken, and the decisions of our Courts are quoted."—*Law Magazine and Review*.

"The work before us comprises a digest of decisions which, if not exhaustive of all the principles of our real property code, will at least be found to leave nothing untouched or unelaborated under the numerous legal doctrines to which the cases severally relate. To Mr. Tudor's treatment of all these subjects, so complicated and so varied, we accord our entire commendation. There are no omissions of any important cases relative to the various branches of the law comprised in the work, nor are there any omissions or defects in his statement of the

law itself applicable to the cases discussed by him. We cordially recommend the work to the practitioner and the student alike, but especially to the former."—*Solicitors' Journal*.

"This and the other volumes of Mr. Tudor are almost a law library in themselves, and we are satisfied that the student would learn more law from the careful reading of them than he would acquire from double the time given to the elaborate treatises which learned professors recommend the student to peruse, with entire forgetfulness that time and brains are limited, and that to do what they advise would be the work of a life. Smith and Mr. Tudor will together give them such a knowledge of law as they could not obtain from a whole library of text books, and of law that will be useful every day, instead of law that they will not want three times in their lives. At this well the practising lawyer might beneficially refresh his memory by a draught, when a leisure hour will permit him to study a leading case. No law library should be without this most useful book."—*Law Times*.



## Chute's Equity in Relation to Common Law.

Post 8vo., 9s. cloth.

**EQUITY UNDER THE JUDICATURE ACT, OR THE RELATION OF EQUITY TO COMMON LAW:** with an Appendix, containing the High Court of Judicature Act, 1873, and the Schedule of Rules. By CHALONER WILLIAM CHUTE, Barrister at Law; Fellow of Magdalen College, Oxford; Lecturer to the Incorporated Law Society of Great Britain.

"His manner is eminently philosophical, and proves the capacity of the author for the position of a lecturer, while it is just the kind of teaching by which students are attracted to the light. Students may here congratulate themselves on the possibility of finding, within the limits of two hundred pages, many of the chief doctrines of Equity, set forth briefly, lucidly and completely."—*Law Journal*.

"We may add that his style presents a very agreeable contrast to the general style of law books. In conclusion, we would heartily recommend this most instructive and interesting work to the perusal of the student."—*Law Examination Journal*.

"The present volume can scarcely fail to become a standard work on the subject of which it treats. Mr. Chute has one special virtue for which his readers will be thankful—the method and arrangement—which are specially valuable in a book of this kind."—*Morning Post*.

"The book is deserving of praise, both for clearness of exposition and for the interesting

way in which modern cases are used to illustrate the doctrines expounded. As it stands it appears to us to be a useful guide to the leading principles of Equity Jurisprudence. The book is written in easy and familiar language, and is likely to prove more attractive to the student than many formal treatises."—*Solicitors' Journal*.

"He thinks clearly, writes very well. As a small and meritorious contribution to the history of jurisprudence it deserves to be welcomed."—*Law Times*.

"The work is conscientiously done and will be useful to the student at the present juncture."—*Echo*.

"Mr. Chute's book is founded upon lectures delivered by him to the students at the Law Institution. The object of it is to point out concisely the principles on which the doctrines of Equity depend, and to show the relation of Equity to the Common Law, and the work is a useful one for the class of persons to whom the lectures are delivered."—*Athenæum*.

## Tomkins and Jencken's Modern Roman Law.

8vo., 14s. cloth.

**COMPENDIUM of the MODERN ROMAN LAW.** Founded upon the Treatises of Puchta, Von Vangerow, Arndts, Franz Møehler and the Corpus Juris Civilis. By FREDERICK J. TOMKINS, Esq., M.A., D.C.L., Author of the "Institutes of Roman Law," Translator of "Gaius," &c., and HENRY DIEDRICH JENCKEN, Esq., Barristers at Law, of Lincoln's Inn.

"Mr. Tomkins and Mr. Jencken could not have written such an excellent book as this if they had not devoted many laborious days, probably years, to the study of Roman Law in its entirety, and to research into the laws of continental states, for the purpose of learning what principles of Roman Law are preserved in their jurisprudence."—*Law Times*.

"To those who think with us that the study of the modern civil law has been too much neglected in the education of solicitors, the admirable book whose title we have above announced will be indeed invaluable."—*Law Examination Journal*.

## Tudor's Law of Charitable Trusts.—Second Edition.

Post 8vo., 18s. cloth.

**THE LAW OF CHARITABLE TRUSTS;** with the Statutes to the end of Session 1870, the Orders, Regulations and Instructions, issued pursuant thereto; and a Selection of Schemes. By OWEN DAVIES TUDOR, Esq., of the Middle Temple, Barrister-at-Law; Author of "Leading Cases in Equity;" "Real Property and Conveyancing;" &c. Second Edition.

"No living writer is more capable than Mr. Tudor of producing such a work: his Leading Cases in Equity, and also on the Law of Real Property, have deservedly earned for him the highest reputation as a learned, careful and judicious text-writer. We have

only to add that the index is very carefully compiled."—*Solicitors' Journal*.

"Mr. Tudor's excellent little book on Charitable Trusts. It is in all respects the text-book for the lawyer, as well as a hand-book for reference by trustees and others engaged in the management of charities."—*Law Times*.



# Phillimore's Commentaries on International Law. 2nd Ed.

4 Vols. 8vo., 6l. 3s. cloth.

COMMENTARIES on INTERNATIONAL LAW. By the Rt. Hon. SIR ROBERT PHILLIMORE, Knt., Member of H.M.'s Most Hon. Privy Council, and Judge of the High Court of Admiralty of England.

\*\*\* For the convenience of purchasers, Vol. 1, price 25s., Vol. 2, price 28s., Vol. 3, price 36s., and Vol. 4, price 34s. cloth, may be had separately to complete sets.

*Extract from Pamphlet on "American Neutrality," by GEORGE BEMIS (Boston, U.S.).*—"Sir Robert Phillimore, the present Queen's Advocate, and author of the most comprehensive and systematic 'Commentary on International Law' that England has produced."

"The authority of this work is admittedly great, and the learning and ability displayed in its preparation have been recognized by writers on public law both on the Continent of Europe and in the United States. With this necessarily imperfect sketch we must conclude our notice of the first volume of a work which forms an important contribution to the literature of public law. The book is of great utility, and one which should find a place in the library of every civilian."—*Law Magazine*.

"We cordially welcome a new edition of vol. 1. It is a work that ought to be studied by every educated man, and which is of constant use to the public writer and statesman. We wish, indeed, that our public writers would read it more abundantly than they have done, as they would then avoid serious errors in discussing foreign questions. Any general criticism of a book which has been received as a standard work would be superfluous; but we may remark, that whilst Sir Robert strictly adheres to the canons of legal authorship, and never gives a statement without an authority or offers a conclusion which is not manifestly deducible from established facts or authoritative utterances, yet so lucid is his style, we had almost said so popular, so clear is the enunciation of principles, so graphic the historical portions, that the book may be read with pleasure as well as profit. It will not be out of place to further remark, that the arrangement is excellent, the table of contents, the list of authorities are complete, and, therefore, these Commentaries are singularly handy for reference. Altogether this work is a witness to the zeal, industry and ability of Sir R. Phillimore. It will not only be read at home, but also in the United States, and it cannot fail to smooth the way for the thorough international understanding between England and America that the true men of both countries so ardently desire."—*Law Journal*.

"It is the most complete repository of matters bearing upon international law that we have in the language. We need not repeat the commendations of the text itself as a treatise or series of treatises which this journal expressed upon the appearance of the two first volumes. The reputation of the Author is too well established and too widely known. We content ourselves with testifying to the fulness and thoroughness of the work as a compilation after an inspection of the three volumes (second edition)."—*Boston (United States) Daily Advertiser*.

"Sir Robert Phillimore may well be proud of this work as a lasting record of his ability, learning and his industry. No one, unless he is a man of talent, can venture to deal with such a difficult and involved subject as international law, and only an author of extensive reading and untiring industry can deal with it as exhaustively as Sir Robert has done. The

development of commerce has made international relations more intimate. It follows that international law will be more studied, not only by lawyers, but also by laymen, who take part in public life, and whatever other books the English lawyer or statesman may use, he will, of course, include Phillimore's Commentaries in his list. Having read the work carefully and critically, we are able to highly recommend it. Usually when such a work reaches a second edition critical commendation is superfluous, but the present is an exceptional case, because Phillimore's Commentaries will be of the greatest use to many non-professional readers who, as public men and public writers, find it necessary to study international law. It is in itself a well digested body of laws."—*Law Journal (second notice)*.

"We have within a short period briefly noticed the previous volumes of the important work of which the fourth volume is now before us. We have more than once recognized the ability and profound research which the learned author has brought to bear upon the subject, but this last volume strikes us as perhaps the most able and lucid, and, in addition to these merits, it deals with a division of international jurisprudence which is of very great interest, namely, private international law or comity. The issue of a second edition proves that it has attained a position of authority and is favourably received by international jurists. We have no grounds for impugning its accuracy, and as a compilation it must receive our acknowledgment that it is able and learned."—*Law Times*.

"The latest arrivals bring us Vol. 4 of this great work: it is the close of the second edition begun a few years ago. Sir Robert Phillimore has one great advantage over new commentators on International Law, in that he is and has always been a working publicist, judge and parliamentarian and not a mere student of the closet. It is his life long habit to look at things in a practical way in the concrete and to judge of propositions by their adaptation tried or probable to the working world of public transactions. The reputation and authority of Dr. Phillimore on this side of the water are too well known and established to require any general commendation of this work. It is enough to recognize the fact that private international law is becoming of more and more importance with the vastly increased opportunities for private dealings between citizens or inhabitants of different nationalities and to changings of domicile and habitancy, and to express gratitude that the learned, experienced and thorough commentator has made the latest contribution towards peace and good understanding among civilized men."—*Boston (United States) Daily Advertiser, Dec. 3rd, 1874 (second notice)*.



**Christie's Crabb's Conveyancing.—Fifth Edit. by Shelford.**

Two vols. royal 8vo., 3l. cloth.

**CRABB'S COMPLETE SERIES of PRECEDENTS in CONVEYANCING and of COMMON and COMMERCIAL FORMS** in Alphabetical Order, adapted to the Present State of the Law and the Practice of Conveyancing; with copious Prefaces, Observations and Notes on the several Deeds. By J. T. CHRISTIE, Esq., Barrister-at-Law. The Fifth Edition, with numerous Corrections and Additions, by LEONARD SHELFORD, Esq., of the Middle Temple, Barrister at Law.

\*\*\* *This Work, which embraces both the Principles and Practice of Conveyancing, contains likewise every description of Instrument wanted for Commercial Purposes.*

**General Table of Heads of Prefaces and Forms.**

Abstracts.—Accounts.—Acknowledgments.—Acquittances.—Admittances.—Affidavits, Affirmations or Declarations.—Agreements: to relinquish Business: to Guarantee: for a Lease: before Marriage: for a Partition: between Principal and Agent: for the Sale and Purchase of Estates: for Sale of Copyhold Estates: for Sale of Leaseholds: for Sale of an Advowson.—Annuity: secured on Copyholds.—Annuities: Assignments of.—Appointments: of Guardians.—Apportionment.—Apprenticeship: to the Sea Service: to an Attorney: Assignment of.—Arbitration: Award.—Assignments: Bonds: Leases: Patents: Pews: Policies of Insurance: Reversionary Interests.—Attestations.—Attornments.—Auctions: Particulars of Sale.—Bargains and Sales: of Timber.—Bills of Sale of Goods.—Bonds: Administration: Receiver pending Suit: Post Obit: Stamps on.—Certificates.—Composition: Conveyances in Trust for Creditors.—Conditions: of Sale.—Confirmations.—Consents.—Copartnership: Dissolution of Copartnership.—Covenants: Stamps on: for Production of Title Deeds.—Declarations.—Deeds: I. Nature of Deeds in General: II. Requisites of a Deed: III. Formal parts of Deeds: IV. Where a Deed is necessary or otherwise: V. Construction of Deeds: VI. Avoiding of Deeds: VII. Proof of Deeds: VIII. Admission of Parol Evidence as to Deeds: IX. Possession of Deeds: X. Stamp Duty on Deeds.—Defeasances.—Demises.—Deputation.—Disclaimers.—Disentailing Deeds.—Distress: Notices of.—Dower.—Enfranchisements.—Exchanges.—Feoffments.—Further Charges.—Gifts.—Grants.—Grants of Way or Road.—Indemnities.—Leases: I. Nature of Leases in General: II. Requisites to a Lease: III. Parts of a Lease: IV. Incidents to a Lease: V. Stamps on Leases.—Letters of Credit.—Licences.—Mortgages: of Copyholds: of Leaseholds: Transfer of: Stamp Duty on.—Notes, Orders, Warrants, &c.—Notices: to Quit.—Partition.—Powers: of Attorney.—Presentation.—Purchase Deeds: Conveyance of Copyholds: Assignments of Leaseholds: Stamps on.—Recitals.—Releases or Conveyances: or Discharges.—Renunciations or Disclaimers.—Resignations.—Revocations.—Separation.—Settlements: Stamp Duty on.—Shipping: Bills of Lading: Bills of Sale: Bottomry and Respondentia Bonds: Charter Parties.—Surrenders.—Wills: 1. Definition of Will and Codicil: 2. To what Wills the Act 7 Will. 4 & 1 Vict. c. 26 does not apply: 3. What may be disposed of by Will: 4. Of the capacity of Persons to make Wills: 5. Who may or may not be Devises; 6. Execution of Wills: 7. Publication of Wills: 8. Revocation of Wills: 9. Lapse of Devises and Bequests: 10. Provisions and Clauses in Wills: 11. Construction of Wills.

*From the Law Times.*

"The preparation of it could not have been confided to more able hands than those of Mr. Shelford, the veteran authority on real property law. With the industry that distinguishes him he has done ample justice to his task. In carefulness we have in him a second Crabb, in erudition Crabb's superior; and the result is a work of which the original author would have been proud, could it have appeared under his own auspices. It is not a book to be quoted, nor indeed could its merits be exhibited by quotation. It is essentially a book of practice, which can only be described in rude outline and dismissed with applause, and a recommendation of it to the notice of those for whose service it has been so laboriously compiled."

*From the Solicitors' Journal.*

"The collection of precedents contained in these two volumes are all that could be desired. They are particularly well adapted for Solicitors, being of a really practical character. They are moreover free from the useless repetitions of common forms that so much increase the bulk and expense of some collections that we could name. We know not of any collection of conveyancing precedents that would make it so possible for a tyro to put together a presentable draft at an exigency, or which are more handy in every respect, even for

the experienced draftsman. Mr. Shelford has proved himself in this task to be not unworthy of his former reputation. To those familiar with his other works it will be a sufficient recommendation of this."

*From the Law Magazine and Review.*

"To this important part of his duty—the remodelling and perfecting of the forms—even with the examination which we have already been able to afford this work, we are able to affirm, that the learned editor has been eminently successful and effected valuable improvements."

*From the Law Chronicle.*

"It possesses one distinctive feature in devoting more attention than usual in such works to forms of a commercial nature. We are satisfied from an examination of the present with the immediately preceding edition that Mr. Shelford has very considerably improved the character of the work, both in the prefaces and in the forms. On the whole the two volumes of Crabb's Precedents, as edited by Mr. Leonard Shelford, will be found extremely useful in a solicitor's office, presenting a large amount of real property learning, with very numerous precedents: indeed we know of no book so justly entitled to the appellation of 'handy' as the fifth edition of Mr. Crabb's Precedents."



## Mosely's Articled Clerks' Handy-Book.

12mo., 7s. cloth.

A PRACTICAL HANDY-BOOK of ELEMENTARY LAW, designed for the use of Articled Clerks, with a Course of Study and Hints on Reading for the Intermediate and Final Examinations. By M. S. MOSELY, Solicitor, Clifford's Inn Prizeman, M. T. 1867.

"This useful little book is intended for the use of articled clerks during the period of their articles. The style of this book is peculiar: it is an exaggeration of the style adopted by Mr. Haynes in his admirable 'Outlines of Equity.' The author seems to think the adoption of such a style the only way to make the study of the law popular, and we are not prepared to say he is wrong."—*Law Magazine and Review*.

"The design of this little book is to combine instruction, advice and amusement, if anything amusing can be extracted from the routine of a solicitor's office and the studies of articled clerks. The book will certainly be found useful by any articled clerk, for it contains much information which it is sometimes very troublesome to find, and the facetiousness of Mr. Mosely's manner will doubtless help to grease the course of a rough and uneasy subject."—*Law Journal*.

"There are few who read this book with care who will not readily admit that on many intricate points of law their notions have become much clearer than before their acquaintance with it. Both parts are well worked out, and will be found useful; but in the second division of each chapter the law student will find most valuable information, as there Mr. Mosely not only marks out the course of reading which he recommends for each year, but also carefully analyses the contents of each book, and points out those chapters and subjects which it will be most advantageous for the student to master at the first reading, and those which he ought to defer till a second perusal and a wider experience have made him more competent to understand them. The style is remarkably good, and, considering the subject, free from technical expressions."—*Irish Law Times*.

## Rouse's Copyhold Manual.—Third Edition.

12mo., 10s. 6d. cloth.

THE COPYHOLD ENFRANCHISEMENT MANUAL, giving the Law, Practice and Forms in Enfranchisements at Common Law and under Statute, and in Commutations; with the Values of Enfranchisements from the Lord's various Rights: the Principles of Calculation being clearly explained, and made practical by numerous Rules, Tables and Examples. Also all the Copyhold Acts, and several other Statutes and Notes. Third Edition. By ROLLA ROUSE, Esq., of the Middle Temple, Barrister at Law, Author of "The Practical Conveyancer," &c.

"This new edition follows the plan of its predecessor, adopting a fivefold division:—1. The Law. 2. The Practice, with Practical Suggestions to Lords, Stewards and Copyholders. 3. The Mathematical consideration of the Subject in all its Details, with Rules, Tables and Examples. 4. Forms. 5. The Statutes, with Notes. Of these, we can only repeat what we have said before, that they exhaust the subject; they give to the practitioner all the materials required by him to conduct the enfranchisement of a copyhold, whether voluntary or compulsory."—*Law Times*.

"When we consider what favor Mr. Rouse's Practical Man and Practical Conveyancer have found with the profession, we feel sure the legal

world will greet with pleasure a new and improved edition of his copyhold manual. The third edition of that work is before us. It is a work of great practical value, suitable to lawyers and laymen. We can freely and heartily recommend this volume to the practitioner, the steward and the copyholder."—*Law Magazine*.

"Now, however, that copyhold tenures are being frequently converted into freeholds, Mr. Rouse's treatise will doubtless be productive of very extensive benefit; for it seems to us to have been very carefully prepared, exceedingly well composed and written, and to indicate much experience in copyhold law on the part of the author."—*Solicitors' Journal*.

## Shelford's Succession, Probate and Legacy Duties. Second Edition.

12mo., 16s. cloth.

THE LAW relating to the PROBATE, LEGACY and SUCCESSION DUTIES in ENGLAND, IRELAND and SCOTLAND, including all the Statutes and the Decisions on those Subjects: with Forms and Official Regulations. By LEONARD SHELFORD, Esq., of the Middle Temple, Barrister-at-Law. The Second Edition, with many Alterations and Additions.

"The book is written mainly for solicitors. Mr. Shelford has accordingly planned his work with careful regard to its practical utility and daily use."—*Solicitors' Journal*.

"One of the most useful and popular of his productions, and being now the text book on the

subject nothing remains but to make known its appearance to our readers. Its merits have been already tested by most of them."—*Law Times*.

"On the whole Mr. Shelford's book appears to us to be the best and most complete work on this extremely intricate subject."—*Law Magazine*.



**Baxter's Judicature Acts and Rules, 1873-5.—2nd Edit.**

Rewritten and much Enlarged. Crown 8vo., with Supplement, 10s. 6d. cloth.

THE LAW AND PRACTICE OF THE SUPREME COURT OF JUDICATURE, comprising the Supreme Court of Judicature Acts, 1873 and 1875; Rules of Court, Forms, Notes arranged section by section, Statutes referred to, and a very copious Index. By WYNNE E. BAXTER, Solicitor of the Supreme Court. Second Edition. With Supplement, containing the Scale of Fees to be taken under the Act. The Supplement separately, 6d. sewed.

**Woolrych's Law of Sewers.—Third Edition.**

8vo., 12s. cloth.

A TREATISE of the LAW of SEWERS, including the DRAINAGE ACTS. By HUMPHRY W. WOOLRYCH, Serjeant at Law. Third Edition, with considerable Additions and Alterations.

"Two editions of it have been speedily exhausted, and a third called for. The author is an accepted authority on all subjects of this class."—*Law Times*.

"This is a third and greatly enlarged edition of a book which has already obtained an established reputation as the most complete discussion of the subject adapted to modern times. Since the treatise of Mr. Serjeant Callis in the early part of the 17th century,

no work filling the same place has been added to the literature of the Profession. It is a work of no slight labour to digest and arrange this mass of legislation; this task, however, Mr. Serjeant Woolrych has undertaken, and an examination of his book will, we think, convince the most exacting that he has fully succeeded. No one should attempt to meddle with the Law of Sewers without its help."—*Solicitors' Journal*.

**Grant's Law of Corporations in General.**

Royal 8vo., 26s. boards.

A PRACTICAL TREATISE on the LAW of CORPORATIONS in GENERAL, as well Aggregate as Sole; including Municipal Corporations; Railway, Banking, Canal, and other Joint-Stock and Trading Bodies; Dean and Chapters; Universities; Colleges; Schools; Hospitals; with *quasi* Corporations aggregate, as Guardians of the Poor, Churchwardens, Churchwardens and Overseers, etc.; and also Corporations sole, as Bishops, Deans, Canons, Archdeacons, Parsons, etc. By JAMES GRANT, Esq., of the Middle Temple, Barrister at Law.

**J. Chitty, jun's. Precedents in Pleading.—Third Edition.**

Complete in 1 vol. royal 8vo., 38s. cloth.

J. CHITTY, JUN'S. PRECEDENTS in PLEADING; with copious Notes on Practice, Pleading and Evidence. Third Edition. By the late TOMPSON CHITTY, Esq., and by LEOFRIC TEMPLE, R. G. WILLIAMS, and CHARLES JEFFERY, Esquires, Barristers at Law. (Part 2 may, for the present, be had separately, price 18s. cloth, to complete sets.)

## Scriven's Law of Copyholds.—5th Edit. by Stalman.

Abridged in 1 vol. royal 8vo., 30s. cloth.

A TREATISE ON COPYHOLD, CUSTOMARY FREEHOLD and ANCIENT DEMESNE TENURE, with the Jurisdiction of Courts Baron and Courts Leet. By JOHN SCRIVEN, Serjeant at Law. Fifth Edition, containing references to Cases and Statutes to 1867. By HENRY STALMAN, of the Inner Temple, Esq., Barrister at Law.

"No lawyer can see or hear the word 'copyhold' without associating with it the name of Scriven, whose book has been always esteemed not merely the best but the only one of any worth. Until a commutation of the tenure for a fixed rent-charge, after the manner of a tithe commutation, is compelled by the legislature, this treatise will lose none of its usefulness to the solicitors in the country."—*Law Times*.

"It would be wholly superfluous to offer one word of comment on the general body of the work. Scriven on Copyholds has for exactly

half a century been not only a standard work but one of unimpeachable authority, and in its pages the present generation has learned all that is known of copyhold and customary tenures. All that is necessary to say is, that in the present edition of Scriven on Copyholds Mr. Stalman has omitted what it was useless to retain, and inserted what it was necessary to add. Until copyholds have disappeared utterly, it is at least certain that Scriven on Copyholds by Stalman will hold undisputed sway in the profession."—*Law Journal*.

## Davis's Law of Registration and Elections.

One small 12mo. vol., 15s. cloth.

MANUAL OF THE LAW AND PRACTICE OF ELECTIONS AND REGISTRATION. Comprising all the Statutes, with Notes and Introduction, and a Supplement containing the Cases on Appeal down to 1869, the Rules relating to Election Petitions, and a complete Index to the whole Work. By JAMES EDWARD DAVIS, Esq., Barrister at Law, Author of "Manual of Practice and Evidence in the County Courts," &c.

"A work, which, in our judgment, is the handiest and most useful of the manuals which the Reform Act of 1867 has brought into existence."—*Law Magazine*.

"We think this the best of the now numerous works on this subject. It has a great advantage in its arrangement over those which are merely new editions of works published before the recent legislation. To read through consecutively, in

order to obtain a fair mastery of the whole subject, we have no hesitation in highly recommending this work."—*Solicitors' Journal*.

No one comes forward with better credentials than Mr. Davis, and the book before us seems to possess the qualities essential to a guide to a discharge of their duties by the officials. The scheme of Mr. Davis's work is very simple."—*Law Journal*

THE SUPPLEMENT may be had separately, price 3s. sewed.

## Browning's Divorce and Matrimonial Causes Practice.

Post 8vo., 8s. cloth.

THE PRACTICE and PROCEDURE of the COURT for DIVORCE and MATRIMONIAL CAUSES, including the Acts, Rules, Orders, copious Notes of Cases and Forms of Practical Proceedings, with Tables of Fees and Bills of Costs. By W. ERNST BROWNING, Esq., Barrister at Law.

## Brandon's Law of Foreign Attachment.

8vo., 14s. cloth.

A TREATISE upon the CUSTOMARY LAW of FOREIGN ATTACHMENT, and the PRACTICE of the MAYOR'S COURT of the CITY OF LONDON therein. With Forms of Procedure. By WOODTHORPE BRANDON, Esq., of the Middle Temple, Barrister at Law.



## Mr. Oke's Magisterial Works.

**Oke's Laws as to Licensing Inns, 1874, &c. &c. ;** containing the Licensing Acts, 1872 and 1874, and the other Acts in force as to Alehouses, Beer-houses, Wine and Refreshment-houses, Shops, &c., where Intoxicating Liquors are sold, and Billiard and Occasional Licences. Systematically arranged, with Explanatory Notes, the authorized Forms of Licences, Tables of Offences, Index, &c. By GEORGE C. OKE, late Chief Clerk to the Lord Mayor of London. Second Edition, by W. C. GLEN, Esq., Barrister at Law. Post 8vo., 10s. cloth.

"A new edition of the late Mr. Oke's carefully prepared manual is rendered necessary by recent changes in the law, and Mr. Glen has done his work well. He has made the book of 1872 available as a book of reference in 1874. It is very fortunate that there is a well indexed treatise to refer to, for lawyers may have a great deal of business in respect of the last Licensing Act."—*Law Journal*, Sept. 12th, 1874.

"Mr. Oke has brought out by far the best edition of the act, or perhaps we should say a treatise on it. Everything appears to be given which can by possibility be required, and the forms are abundant."—*Law Times*.

"We have to acknowledge a second edition of the late Mr. Oke's Licensing Law, edited by Mr. W. C. Glen. Recent legislation has been added so as to make the work a complete book of reference on the subject of which it treats down to the present time."—*Law Times* (second notice).

"This treatise on the Licensing Laws is accurate and thoroughly practical. Of Mr. Oke's treatment of his subject we can speak with the highest praise. The book will no doubt at once take its place as the recognized guide for those who have to do with licensing

law. The table of offences is especially valuable."—*Solicitors' Journal*.

"The arrangement in chapters by Mr. Oke seems to us better than the plan pursued by the authors of the rival work, and we think that Mr. Glen has done well to leave in many cases a concise statement of the effect of the legislation repealed by the late Act. He also gives a useful list of places beyond the metropolitan district, and in the police district."—*Solicitors' Journal* (second notice).

"Messrs. Butterworth have judiciously confided the task of revision to the pen of Mr. Cunningham Glen; the whole is comprised in a well got up volume of 353 pages. Both the table of contents and the index are capitally arranged, and afford every facility for reference."—*Brewers' Guardian*.

"We can pronounce a favourable opinion with a clear conscience, and that verdict is, that for fulness, perspicuity, careful indexing and exhaustive treatment of dubious and debatable points, this neatly printed volume is the most comprehensive, convenient and reliable digest of the often indigestible licensing laws that has yet appeared."—*Licensed Victuallers' Gazette*.

**Oke's Magisterial Synopsis ; a Practical Guide for** Magistrates, their Clerks, Attornies, and Constables; Summary Convictions and Indictable Offences, with their Penalties, Punishments, Procedure, &c., *being alphabetically and tabularly arranged*: with a Copious Index. *Eleventh Edition, much enlarged.* By GEORGE C. OKE, late Chief Clerk to the Lord Mayor of London. In 2 vols. 8vo. 63s. cloth.

"The tenth edition of this valuable work was published so recently as 1868, and this fact is more eloquent of the merits of Mr. Oke's labours than any amount of commendation from us. It is only necessary that we should notice the appearance of this last (eleventh) edition, 1872, which we do with much pleasure."—*Law Times*.

"This is the eleventh edition of Mr. Oke's work since 1848, a fact which speaks for itself. The profession and the public have proved by experience the excellence of the book; and the personal supervision of the author is a guarantee that the present edition is equal to its predecessors. Mr. Oke's labour in preparing it must have been considerable, and the rapid growth of magisterial jurisdiction having

rendered it necessary to insert much new matter and to rewrite and condense no small portion of the old. In the result, in spite of every effort made to keep down the bulk of the volume, it has been absolutely necessary to add 200 pages. The whole Synopsis now consists of nearly 1,600 pages of elaborately arranged and carefully digested information. It is needless to say that we cannot do more than indicate in very general terms the contents of this valuable work. Mr. Oke may well be proud of it. The result of his labours is highly creditable to him, and he deserves the thanks of all who in any capacity are engaged in the administration of justice."—*Solicitors' Journal*.

**Oke's Magisterial Formulist ; being a Complete Col-**lection of Forms and Precedents for practical use in all Cases out of Quarter Sessions, and in Parochial Matters, by Magistrates, their Clerks, Attornies and Constables. *Fifth Edition*, enlarged and improved. By THOMAS W. SAUNDERS, Esq., Barrister at Law and Recorder of Bath. 8vo. 38s. cloth. (Now ready.)



**Mr. Oke's Magisterial Works—continued.**

**Oke's Law of Turnpike Roads; comprising the whole** of the General Acts now in force, including those of 1861; the Acts as to Union of Trusts, for facilitating Arrangements with their Creditors, as to the interference by Railways with Roads, their non-repair, and enforcing contributions from Parishes, &c., practically arranged. With Cases, copious Notes, all the necessary Forms, and an elaborate Index, &c. By **GEORGE C. OKE**. *Second Edition*. 12mo. 18s. cloth.

"All Mr. Oke's works are well done, and his 'Turnpike Laws' is an admirable specimen of the class of books required for the

guidance of magistrates and legal practitioners in country districts." — *Solicitors' Journal*.

**Shelford's Law of Railways.—Fourth Edition by Glen.**

In 2 thick vols. royal 8vo., 63s. cloth.

**SHELFORD'S LAW of RAILWAYS; containing the whole** of the Statute Law for the Regulation of Railways in England, Scotland and Ireland: with copious Notes of Decided Cases upon the Statutes, Introduction to the Law of Railways, and Appendix of Official Documents. Fourth Edition. By **WILLIAM CUNNINGHAM GLEN**, Barrister at Law, Author of the "Law of Highways," "Law of Public Health and Local Government," &c.

*From the LAW MAGAZINE.*

"Though we have not had the opportunity of going conscientiously through the whole of this elaborate compilation, we have been able to devote enough time to it to be able to speak in the highest terms of the judgment and ability with which it has been prepared. Its execution quite justifies the reputation which Mr. Glen has already acquired as a legal writer, and proves that no one could have been more properly singled out for the duty he has so well discharged. *The work must take its unquestionable position as the leading Manual of the Railway Law of Great Britain.* The cases seem to have been examined, and their effect to be stated with much care and accuracy, and no channel from which information could be gained has been neglected. Mr. Glen, indeed, seems to be saturated with knowledge of his subject. The value of the work is greatly increased by a number of supplemental decisions, which give all the cases up to the time of publication, and by an index which appears to be thoroughly exhaustive."

*From the LAW TIMES.*

"Mr. Glen has done wisely in preserving that reputation, and, as far as possible, the text of Shelford—though very extensive alterations and additions have been required. But he has a claim of his own. He is a worthy successor of the original author, and possesses much of the same industry, skill in arrangement and astuteness in enumerating the points really decided by cited cases. But we have said enough of a work already so well known. It will have a place not in the library of the lawyer alone. It is a book which every railway office should keep on its shelf for reference."

*From the LAW JOURNAL.*

"Mr. Glen has modestly founded his work as a superstructure on that of Mr. Leonard Shelford, but he has certainly claims to publish it as a purely independent composition. The toil has been as great, and the reward ought to be as complete, as if Mr. Glen had disregarded all his predecessors in the production of treatises on railway law. Since the year 1864 he has been

unceasingly engaged in collecting materials, and though he has been ready for the printer for some time, and has delayed the appearance of the volumes in the expectation of legislative changes in railway law, yet he has expended full five years of care and attention on his work. Let us hope that he will have no cause to think his labour has been in vain. *At any rate we may venture to predict that Mr. Cunningham Glen's edition of Shelford on Railways will be the standard work of our day in that department of law.*"

*From the JUSTICE OF THE PEACE.*

"Far be it from us to undervalue Mr. Shelford's labours, or to disparage his merits. But we may nevertheless be permitted to observe that *what has hitherto been considered as the best work on the subject* (Shelford) *has been immeasurably improved by the application of Mr. Glen's diligence and learning.* Sufficient, however, has been done to show that it is in every respect worthy of the reputation which the work has always enjoyed. We feel little doubt that the credit of that work will be greatly increased by Mr. Glen's instrumentality, and that not only will he have ably maintained its reputation by his successful exertions, but that he will have added materially to it."

*From the SOLICITORS' JOURNAL.*

"The practitioner will find here collected together all the enactments bearing on every possible subject which may come before him in connection with railways or railway travelling. Whatever questions may arise the lawyer who has this book upon his shelves, may say to himself 'If there has been any legislation at all connected with this branch of the subject I shall at once find it in Shelford;' and it needs not to be said that on this account the book will be a very 'comfortable' one to possess. The collection is equally exhaustive in the matter of rules, orders, precedents and documents of official authority. To sum up our review; as a collection of statutes and general information the work will prove extremely useful, because in these respects it is so perfectly exhaustive."



## Crump's Marine Insurance and General Average.

Royal 8vo., 21s. cloth.

THE PRINCIPLES of the LAW RELATING to MARINE INSURANCE and GENERAL AVERAGE in England and America, with occasional references to French and German Law. By FREDERIC OCTAVIUS CRUMP, of the Middle Temple, Esq., Barrister at Law.

"Three years have elapsed since the publication of an edition of a standard work on Marine Insurance. During those years numerous important cases have been decided—cases establishing principles in many instances novel and of the last consequence to parties to policies. The author believes that all the decisions reported up to the date of publication will be found noted in his work."—*Extract from Preface.*

"This is decidedly a clever book. We always welcome cordially any genuine effort to strike out a new line of legal exposition, not merely because such effort may more effectually teach law, but because it may exhibit a better method than we now possess of expressing law. The author does not venture to use the term 'codification' in speaking of the design of this book. He is content if he has made a single step in advance towards simplification, and so much merit we have no hesitation in awarding to him. From the extracts we have made it is manifest that the author has followed the fashion neither of the ordinary text book nor the plan of a digest of cases, but that he has developed a method nearly approaching to 'codification.' We have been at pains to search the book for many of the most recent cases in marine insurance, and although some of them are exactly of a character to puzzle and embarrass a codifier, Mr. Crump has dealt successfully with them. We think we may fairly congratulate the author upon the production of a work original in design, excellent in arrangement, and as complete as could fairly be expected."—*Law Journal.*

"The principles and practice of general average are included in this admirable summary."—*Standard.*

"Alphabetically arranged this work contains a number of the guiding principles in the judge-made law on this subject, which has got into such a tangle of precedents that a much less careful digest than that under the above title would have been welcome to students as well as merchants. Mr. Crump has made a very commendable effort at brevity and clearness."—*Economist.*

"The plan of the work differs materially, and, we think, advantageously, from the ordinary text-book. Commencing with the principle of an alphabetical arrangement, Mr. Crump enumerates all the definitions and settled principles of the branch of the law selected by him for treatment, giving careful references for every statement, but repudiating the perfunctory method of adhering slavishly to the actual words of the authorities. By this system several advantages are secured. We have examined several of Mr. Crump's propositions in order to test him on these points, and the result is decidedly in his favour. We have no hesitation in commending the plan of Mr. Crump's book; its use in actual practice must, of course, be the ultimate gauge of its accuracy and completeness; but from the tests that we have applied we have little doubt that it will stand the ordeal satisfactorily."—*Athenæum.*

"His design is to compile a digested summary of rules, tersely expressed and easy of

reference; and though such a work can never supersede treatises like those of Arnould, Phillips, or Duer, he has produced what will be a very useful manual of reference and will guide the practitioner to the sources where he will find the principles more fully developed. The work, which must have involved great labour, appears to us to have been executed with fulness, accuracy and fidelity, and its value is much increased by references not only to English and American decisions and text-writers, but to the French and German law on the same subject. Considering the narrow compass within which it is comprised, we have been surprised to find how complete and comprehensive it appears to be; and if further experience should justify the expectations which our perusal of it induces us to form, Mr. Crump will not be disappointed in his hope that he has made 'a step in advance towards simplification—not to use the term codification—of the law.'"—*Solicitors' Journal.*

"There are many portions of it well arranged, and where the law is carefully and accurately stated."—*Law Magazine.*

"It is at once a treatise and a dictionary on the difficult and complicated branch of the law with which it deals, and to which Mr. Crump has in this volume done something to give an orderly simplicity."—*Daily News.*

"We rejoice at the publication of the book at the head of this notice. Mr. Crump is a bold man, for he has positively made an innovation. Instead of a ponderous tome, replete with obsolete law, useless authorities and antiquated quotations, we have a handy, clearly-written and well-printed book, seemingly containing the whole law on the subject, in the shape of a digest of decided cases, in the very words of the judges, and leaving nothing doubtful and misleading to beguile the reader. It is true that such a plan increases the trouble of the author, but, as it diminishes that of the reader, he may pardon the irregularity. Seriously speaking, Mr. Crump's book seems very perfect, and is certainly very clear in its arrangement and complete in its details, conscientiously going into the most minute points and omitting nothing of importance."—*Irish Law Times.*

"Mr. Crump has here compiled a work on Marine Insurance and General Average, and brought down the judicial decisions to April, 1875. The subject-matter of the book in every instance is printed in large type, and the clauses followed by smaller letters of reference. This makes the work convenient for consultation, and the law cases being appended to every paragraph with quotations from the laws of foreign countries, its conciseness in the mode of explanation tends to render the author's reasonings intelligible more readily than they would otherwise have been if overlaid by laborious dissertations upon the cases and effects of decisions on disputed points. Mr. Crump enhances the value of his book by naming the authorities from whence he derives his information. Mr. Crump, we may observe, in this treatise of the law of Average and Insurance, has supplied a ready armoury of reference."—*Shipping and Mercantile Gazette.*



## Chadwick's Probate Court Manual.

Royal 8vo., 12s. cloth.

**EXAMPLES of ADMINISTRATION BONDS** for the COURT of PROBATE; exhibiting the Principle of various Grants of Administration, and the correct Mode of preparing the Bonds in respect thereof; also Directions for preparing the Oaths, arranged for practical utility. With Extracts from the Statutes; also various Forms of Affirmation prescribed by Acts of Parliament, and a Supplemental Notice, bringing the work down to 1865. By SAMUEL CHADWICK, of Her Majesty's Court of Probate.

"We undertake to say that the possession of this volume by practitioners will prevent many a hitch and awkward delay, provoking to the lawyer himself and difficult to be satisfactorily explained to the clients."—*Law Magazine and Review*.

"Mr. Chadwick's volume will be a necessary

part of the law library of the practitioner, for he has collected precedents that are in constant requirement. This is purely a book of practice, but therefore the more valuable. It tells the reader what to do, and that is the information most required after a lawyer begins to practise."—*Law Times*.

## Glen's Poor Law Orders.—Seventh Edition.

Post 8vo., 21s. cloth.

The GENERAL CONSOLIDATED and other ORDERS of the POOR LAW COMMISSIONERS and the POOR LAW BOARD; with explanatory Notes elucidating the Orders, Tables of Statutes, Cases and Index to the Orders and Cases. By W. C. GLEN, Esq., Barrister at Law. Seventh Edition.

## Bulley and Bund's Bankruptcy Manual: with Supplement.

12mo., 16s. cloth.

A MANUAL of the LAW and PRACTICE of BANKRUPTCY as Amended and Consolidated by the Statutes of 1869: with an APPENDIX containing the Statutes, Orders and Forms. By JOHN F. BULLEY, B.A., of the Inner Temple, Esq., Barrister at Law, and J. W. WILLIS-BUND, M.A., LL.B., of Lincoln's Inn, Esq., Barrister at Law. With Supplement, including the Orders to 30th April, 1870.

THE SUPPLEMENT may be had separately, 1s. sewed.

## Coombs' Manual of Solicitors' Bookkeeping.

8vo., 10s. 6d. cloth.

A MANUAL of SOLICITORS' BOOKKEEPING: comprising Practical Exemplifications of a Concise and Simple Plan of Double Entry, with Forms of Account and other Books relating to Bills, Cash, &c., showing their Operation, giving Instructions for Keeping, Posting and Balancing them, and Directions for Drawing Costs, adapted to a large or small, sole or partnership business. By W. B. COOMBS, Law Accountant and Costs Draftsman.

\*\*\* *The various Account Books described in the above System, the forms of which are copyright, may be had from the Publishers at the prices stated in the work, page 274.*

"It adds some excellent instructions for drawing bills of costs. Mr. Coombs is a practical man, and has produced a practical book."—*Law Times*.

"He has performed his task in a masterly manner, and in doing so has given the why and the wherefore of the whole system of Solicitors' Bookkeeping. The volume is the most comprehensive we remember to have seen on the subject, and from the clear and intelligible manner in which the whole has been worked out it will render it unexceptionable in the hands of the student and the practitioner."—*Law Magazine*.

"So clear do the instructions appear, that a

tyro of average skill and abilities, with application, could under ordinary circumstances open and keep the accounts of a business; and, so far as we can judge, the author has succeeded in his endeavour to divest Solicitors' Bookkeeping of complexity, and to be concise and simple, without being inefficient."—*Law Journal*.

"This is not merely a valuable addition to the library of every solicitor, it is a book that every articulated clerk, now that intermediate examinations embrace bookkeeping, will be read with profit and benefit to himself. It may be fairly said to exhaust the subject of which it treats."—*Solicitors' Journal*.



## Hertslet's Commercial Treaties.

12 vols., 8vo., 14l. 15s. boards.

HERTSLET'S TREATIES of Commerce, Navigation, Slave Trade, Post Office Communications, Copyright, &c., at present subsisting between Great Britain and Foreign Powers. Compiled from Authentic Documents by EDWARD HERTSLET, Esq., C.B., Librarian and Keeper of the Papers of the Foreign Office.

\* \* \* *Vol. 1, price 12s.; Vol. 2, price 12s.; Vol. 3, price 18s.; Vol. 4, price 18s.; Vol. 5, price 20s.; Vol. 6, price 25s.; Vol. 7, price 30s.; Vol. 8, price 30s.; Vol. 9, price 30s.; Vol. 10, price 30s.; Vol. 11, price 30s.; Vol. 12, price 40s.; may be had separately to complete sets. Vol. 12 includes an Index of Subjects to the Twelve published Volumes, which Index is also sold separately, price 10s. cloth.*

## Hertslet's Treaty Map of Europe.

3 vols., royal 8vo., 4l. 14s. 6d. cloth.

THE "MAP of EUROPE" by Treaty, 1814—1875, shewing the various political and territorial changes which have taken place since the General Peace of 1814. Numerous Notes and Coloured Maps are also added, as well as a copious Index. By EDWARD HERTSLET, C.B., Librarian and Keeper of the Papers, Foreign Office.

\* \* \* *The work contains Declarations of War; Treaties of Peace and Boundary; Decrees annexing Territory; Protests; Treaties for Maintaining the Balance of Power in Europe, and for the Guarantee of the Independence and Neutrality of Certain States, &c., &c., &c.; with a Description of the Deliberations of European Conferences.*

## Hertslet's Treaties on Trade and Tariffs.

In royal 8vo.

TREATIES and TARIFFS regulating the Trade between Great Britain and Foreign Nations, and Extracts of the Treaties between Foreign Powers, containing "Most Favoured Nation" Clauses applicable to Great Britain in force on the 1st January, 1875. By EDWARD HERTSLET, Esq., C.B., Librarian and Keeper of the Papers of the Foreign Office. Part I.—*Austria*, 7s. 6d. cloth. Part II.—*Turkey*, 15s. cloth.

"This is one of a series of valuable works bearing on the trade of England and foreign nations, the present instalment dealing with

our commercial relations with Turkey."—*Standard*.

## Wills on Circumstantial Evidence.—Fourth Edition.

8vo., 10s. cloth.

AN ESSAY on the PRINCIPLES of CIRCUMSTANTIAL EVIDENCE. Illustrated by numerous Cases. By the late WILLIAM WILLS, Esq. Fourth Edition, edited by his Son, ALFRED WILLS, Esq., Barrister at Law.

**Dr. Tristram's Probate Contentious Practice.—7th Edit.**

In 1 vol. 8vo., cloth.

THE CONTENTIOUS PRACTICE OF THE PROBATE DIVISION OF THE HIGH COURT OF JUSTICE. By T. H. TRISTRAM, D.C.L., Advocate and Barrister at Law (and one of the compilers of the Rules and Orders under the Supreme Court of Judicature Acts). Seventh Edition. *(In the Press.)*

**Trower's Church Building Laws, 1874.**

Post 8vo., 9s. cloth.

THE LAW of the BUILDING of CHURCHES, PARSONAGES, and SCHOOLS, and of the Division of Parishes and Places. By CHARLES FRANCIS TROWER, M.A., of the Inner Temple, Esq., Barrister at Law, late Fellow of Exeter College, Oxford, and late Secretary of Presentations to Lord Chancellor Westbury.

"We may pronounce it a useful work. It contains a great mass of information of essential import, and those who, as parishioners, legal advisers, or clergymen, are concerned with glebes, endowments, district chapelries, parishes, ecclesiastical commissions, and such like matters, about which the public, and notably the clerical public, seem to know but little, but which it is needless to say are matters of much importance."—*Solicitors' Journal*.

"His book is just the one we could wish every clergyman to possess, for if it was in the hands of our readers they would be saved the trouble of asking us very many questions."—*Clerical Journal*.

"In a well-arranged volume this gentleman points out concisely and intelligibly how the difficulties which usually beset parties in such matters may be avoided."—*Oxford University Herald*.

"On all the topics germane to its title this volume will be found a handy book of ecclesiastical law, and should on that account be made widely known among the clergy."—*Church Mail*.

"It is a compact and handy treatise, very clearly written, well arranged, easy of reference, and, besides a good table of contents, it has an elaborate index. It is a book we are glad to have and to recommend."—*Literary Churchman*.

**Benham's Student's Examination Guide.**

12mo., 3s. cloth.

THE STUDENT'S GUIDE to the PRELIMINARY EXAMINATION for ATTORNEYS and SOLICITORS, and also to the Oxford and Cambridge Local Examinations and the College of Preceptors; to which are added numerous Suggestions and Examination Questions, selected from those asked at the Law Institution. By JAMES ERLE BENHAM, of King's College, London.

**Latham's Law of Window Lights.**

Post 8vo., 10s. cloth.

A TREATISE on the LAW of WINDOW LIGHTS. By FRANCIS LAW LATHAM, of the Inner Temple, Esq., Barrister at Law.

"This is not merely a valuable addition to the law library of the practitioner, it is a book that every law student will read with profit. It exhausts the subject of which it treats."—*Law Times*.

"His arrangement is logical, and he discusses fully each point of his subject. The work, in our opinion, is both perspicuous and able, and we cannot but compliment the author on it."—*Law Journal*.

**Drewry's Equity Pleader.**

12mo., 6s. cloth.

A CONCISE TREATISE on the PRINCIPLES of EQUITY PLEADING; with Precedents. By C. STEWART DREWRY, of the Inner Temple, Esq., Barrister at Law.

"It will be found of great utility as introductory to the more elaborate treatises, or to

refresh the memory after the study of the larger books."—*Law Times*.

**Lushington's Naval Prize Law.**

Royal 8vo., 10s. 6d. cloth.

A MANUAL of NAVAL PRIZE LAW. BY GODFREY LUSHINGTON, of the Inner Temple, Esq., Barrister at Law.



## Saunders' Law of Negligence.

1 vol., post 8vo., 9s. cloth.

A TREATISE on the LAW applicable to NEGLIGENCE.  
By THOMAS W. SAUNDERS, Esq., Barrister at Law, Recorder of Bath.

"The book is admirable; while small in bulk, it contains everything that is necessary, and its arrangement is such that one can readily refer to it. Amongst those who have done good service, Mr. Saunders will find a place."—*Law Magazine*.

"In the useful little volume now before us he has gathered the whole law of negligence. All his works are distinguished by painstaking and accuracy. This one is no exception; and the subject, which is of very extensive interest, will insure for it a cordial welcome from the profession."—*Law Times*.

"The references to the cases are given much more fully, and on a more rational system than is common with text book writers. He has a good index; he has produced a work which will facilitate reference to the authorities."—*Solicitors' Journal*.

"As a work of reference the book will be very welcome in the office of the solicitor or in the chambers of the barrister."—*Morning Advertiser*.

"A short and clear treatise like the present on the law relating to the subject ought to be welcomed. It is a moderate size volume, and makes references to all the authorities on the question easy."—*Standard*.

"It is a great advantage to the legal profession to find all the law of negligence collected and arranged in a manual of reasonable size. Such is Mr. Saunders' book."—*Public Opinion*.

"A serviceable and seasonable treatise on the law of negligence, by Thomas W. Saunders, Esq., Recorder of Bath."—*Telegraph*.

"A careful treatise on a branch of law which is daily acquiring importance. The manual before us is a useful treatise."—*Echo*.

## Ingram's Law of Compensation.—2nd Edit. by Elmes.

Post 8vo., 12s. cloth.

COMPENSATION to LAND and HOUSE OWNERS: being a Treatise on the Law of the Compensation for Interests in Lands, &c. payable by Railway and other Public Companies; with an Appendix of Forms and Statutes. By THOMAS DUNBAR INGRAM, of Lincoln's Inn, Esq., Barrister at Law. Second Edition. By J. J. ELMES, of the Inner Temple, Esq., Barrister at Law.

"We say at once that it is a work of great merit. It is a concise, clear and complete exposition of the law of compensation applicable to the owners of real property and railway and other companies."—*Law Magazine*.

"Whether for companies taking land or holding it, Mr. Ingram's volume will be a welcome guide. With this in his hand the legal adviser of a company, or of an owner and occupier whose property is taken, and who demands compen-

sation for it, cannot fail to perform his duty rightly."—*Law Times*.

"This work appears to be carefully prepared as regards its matter. This edition is a third larger than the first; it contains twice as many cases, and an enlarged index. It was much called for, and doubtless will be found very useful to the practitioner."—*Law Magazine*, second notice.

## Cutler's Law of Naturalization.

12mo., 3s. 6d. cloth.

THE LAW of NATURALIZATION; as Amended by the Acts of 1870. By JOHN CUTLER, B.A., of Lincoln's Inn, Barrister at Law, Editor of "Powell's Law of Evidence," &c.

"The author's position as Professor of English Law and Jurisprudence is a guarantee of his legal competence, whilst his literary abilities have enabled him to clothe his legal knowledge in language which laymen can understand without being misled by it."—*John Bull*.

"Mr. Cutler, in the work before us, lucidly explains the state of the law previous to the recent statute, and shows the alterations produced by it, so that a careful perusal of this book will enable the reader fully to comprehend the present state of the law upon this most important subject."—*Justice of the Peace*.

"This little work will be found of use to our countrymen resident abroad, as well as to

foreigners resident in this country."—*Public Opinion*.

"The book is a model of what a treatise of its kind should be."—*Sunday Times*.

"A very convenient hand book to the law of naturalization, as amended by the Acts of 1870."—*Weekly Times*.

"To anyone not having much previous acquaintance with the subject, who wishes for a general sketch of the law affecting aliens, as it was, and as it is now, this book will be useful."—*Solicitors' Journal*.

"It has been carefully compiled, and the authorities referred to are accurately cited."—*Pall Mall Gazette*.



## Hunt on Frauds and Bills of Sale.

Post 8vo., 9s. cloth.

The LAW relating to FRAUDULENT CONVEYANCES, under the Statutes of Elizabeth and the Bankrupt Acts: with Remarks on the Law relating to Bills of Sale. By ARTHUR JOSEPH HUNT, of the Inner Temple, Esq., Barrister at Law, Author of "The Law relating to Boundaries, Fences and Foreshores."

"This work is calculated to be of service to the profession. Mr. Hunt has brought to bear upon the subject a clearness of statement, an orderliness of arrangement and a subtlety of logical acuteness which carry him far towards a complete systematization of all the cases. Neither has his industry been lacking: the cases that have arisen under the Bankruptcy Act, 1869, and under the Bills of Sale Act have been carefully and completely noted up and disposed of by him in their appropriate places. The index also is both accurate and careful and secures much facility of reference to the various matters which are the subjects of the work."—*Law Magazine*.

"Though smaller in size, Mr. Hunt's book deals with fraudulent conveyances under the Bankruptcy Acts, a subject which Mr. May in his work left almost untouched, although his book has the undoubted merit of being the first to break fresh ground in treating fraudulent conveyances in a separate volume. In

reviewing that book last year we took occasion, while praising the industry and care with which it was compiled, to remark on the obscurity of its style. In this respect its younger rival has considerable advantage. Mr. Hunt's book is as readable as a treatise on so technical a subject can well be made. Mr. Hunt's arrangement of his materials follows an orderly and intelligible plan. The index is apparently carefully prepared, and the table of cases shews that none of the recent cases have been overlooked. Mr. Hunt has produced a really useful book unencumbered by useless matter, which deserves great success as a manual of the law of fraudulent dispositions of property."

—*Law Journal*.

"The author has collected with industry and care the authorities bearing on the question he has undertaken to deal with. The matter is conveniently broken up, and the reader is assisted by a good index."—*Solicitors' Journal*.

## Fry's Specific Performance of Contracts.

8vo., 16s. cloth.

A TREATISE on the SPECIFIC PERFORMANCE of CONTRACTS, including those of Public Companies, with a Preliminary Chapter on the Provisions of the Chancery Amendment Act, 1858. By EDWARD FRY, B.A., of Lincoln's Inn, Esq., one of Her Majesty's Counsel.

The practitioner who uses it as a text book will find in it an adviser who will tell him not only what the law is, but how it may be enforced."—*Law Times*.

"Mr. Fry's work presents in a reasonable compass a large quantity of modern learning on the subject of contracts, with reference to the common remedy by specific performance, and will

thus be acceptable to the profession generally."—*Law Chronicle*.

"Mr. Fry's elaborate essay appears to exhaust the subject, on which he has cited and brought to bear, with great diligence, some 1,500 cases, which include those of the latest reports."—*Law Magazine and Review*.

## Wright's Law of Conspiracy.

8vo., 4s. cloth.

THE LAW of CRIMINAL CONSPIRACIES and AGREEMENTS. By R. S. WRIGHT, of the Inner Temple, Barrister at Law, Fellow of Oriel Coll., Oxford.

## Michael and Will's Law of Gas and Water Supply.

Post 8vo., 18s. cloth.

THE LAW of GAS and WATER SUPPLY; comprising the Rights and Duties as well of Local Authorities as of Private Companies in regard thereto, and including the Legislation of the last Session of Parliament. By W. H. MICHAEL and J. SHIRESS WILL, Esqrs., Barristers at Law.

"An honest and a successful attempt to deal with the laws affecting gas and water supply."—*Law Journal*.

"We feel thoroughly justified in recommending the volume to the attention of the com-

panies, the public and the profession."—*Law Times*.

"On the whole, we can thoroughly recommend the work to those who require guidance on the subject."—*Solicitors' Journal*.

**Glen's Law of Highways.—Third Edition.**

In the Press. Post 8vo.

The LAW of HIGHWAYS: comprising the Highway Acts 1835, 1862 and 1864; the South Wales Highway Act; the Statutes and Decisions of the Courts on the subject of Highways, Bridges, Ferries, &c., including the Duties of Highway Boards, Surveyors of Highways, the Law of Highways in Local Board of Health Districts; Highways affected by Railways, and Locomotives on Highways. With an Appendix of Statutes in force relating to Highways. By W. CUNNINGHAM GLEN, Esq., Barrister at Law. Third Edition.

**Glen's Law of Public Health.—Eighth Edition.**

In the Press. 8vo.

THE LAW relating to PUBLIC HEALTH and LOCAL GOVERNMENT, and Urban and Rural Sanitary Authorities, including the Law relating to the Removal of Nuisances injurious to Health and the Prevention of Disease; with Statutes and Cases. By W. CUNNINGHAM GLEN and ALEXANDER GLEN, B.A., LL.B., Barristers at Law.

**Holland on the Form of the Law.**

8vo., 7s. 6d. cloth.

ESSAYS upon the FORM of the LAW. By THOMAS ERSKINE HOLLAND, M.A., Fellow of Exeter College, and Chichele Professor of International Law in the University of Oxford, and of Lincoln's Inn, Barrister at Law.

"A work of great ability."—*Athenæum*.  
 "Entitled to very high commendation."—*Law Times*.

"The essays of an author so well qualified to write upon the subject."—*Law Journal*.

"We can confidently recommend these

essays to our readers."—*Law Magazine*.

"A work in which the whole matter is easily intelligible to the lay as well as the professional public"—*Saturday Review*.

"Mr. Holland's extremely valuable and ingenious essays."—*Spectator*.

**Heales's History and Law of Pews.**

2 vols. 8vo., 16s. cloth.

The HISTORY and LAW of CHURCH SEATS or PEWS. By ALFRED HEALES, F.S.A., Proctor in Doctors' Commons.

"Great pains have evidently been taken in the compilation of this work, which exhibits throughout an immense amount of research and a careful arrangement of cases and extracts."—*Law Magazine*.

"The work deserves a place in all public libraries, and doubtless many practitioners, especially those whose law learning has any

antiquarian proclivities, will be glad to possess it. For original research and faithful labour in verifying references no other writer can lay any claim to come anywhere near Mr. Heales. The author deserves particular commendation for the conscientious labour with which he has traced up all his authorities."—*Solicitors' Journal*.

**Parkinson's Common Law Chamber Practice.**

12mo., 7s. cloth.

A HANDY BOOK FOR THE COMMON LAW JUDGES' CHAMBERS. By GEO. H. PARKINSON, Chamber Clerk to the Hon. Mr. Justice Byles.

"So much work is now done in Common Law Chambers by junior clerks that such a little treatise is much wanted. Mr. Parkinson has performed his task skilfully and with care."—*Solicitors' Journal*.

"The practice in Chambers has become sufficiently important to call for a treatise devoted to it, nor could a more competent man for the task have presented himself than Mr. Parkinson."—*Law Times*.



## Smith's Practice of Conveyancing.

Post 8vo., 6s. cloth.

AN ELEMENTARY VIEW of the PRACTICE of CONVEYANCING in SOLICITORS' OFFICES; with an Outline of the Proceedings under the Transfer of Land and Declaration of Title Acts, 1862, for the use of Articled Clerks. By EDMUND SMITH, B.A., late of Pembroke College, Cambridge. Attorney and Solicitor.

## Tomkins' Institutes of Roman Law.

Part I. royal 8vo. (to be completed in Three Parts) 12s. cloth.

THE INSTITUTES OF THE ROMAN LAW. PART I. The Sources of the Roman Law and its external History to the decline of the Eastern and Western Empires. By FREDERICK J. TOMKINS, M.A., D.C.L., Barrister at Law, of Lincoln's Inn.

## Gaius's Roman Law, by Tomkins and Lemon.

Complete in 1 vol. 8vo., 27s. cloth extra.

THE COMMENTARIES OF GAIUS ON THE ROMAN LAW: with an English Translation and Annotations. By FREDERICK J. TOMKINS, Esq., M.A., D.C.L., and WILLIAM GEORGE LEMON, Esq., LL.B. Barristers at Law, of Lincoln's Inn.

## Williams's Common Law Pleading and Practice.

8vo., 12s. cloth.

An INTRODUCTION to PRACTICE and PLEADING in the SUPERIOR COURTS of LAW, embracing an outline of the whole proceedings in an Action at Law, on Motion, and at Judges' Chambers; together with the Rules of Pleading and Practice, and Forms of all the principal Proceedings. By WATKIN WILLIAMS, Esq., M.P., of the Inner Temple, Barrister at Law.

"For the Student especially the book has features of peculiar value, it is at the same time scientific and practical, and throughout the work there is a judicious union of general principles

with a practical treatment of the subject, illustrated by forms and examples of the main proceedings."—*Jurist*.

## Smith's Bar Education.

8vo., 9s. cloth.

A HISTORY of EDUCATION for the ENGLISH BAR, with SUGGESTIONS as to SUBJECTS and METHODS of STUDY. By PHILIP ANSTIE SMITH, Esq., M.A., LL.B., Barrister at Law.



## Redman's Law of Arbitrations and Awards.

8vo., 12s. cloth.

A CONCISE TREATISE on the LAW of ARBITRATIONS and AWARDS, with an Appendix of Precedents and Statutes. By JOSEPH HAWORTH REDMAN, of the Middle Temple, Esq., Barrister at Law.

"Mr. Redman goes straight through his task, and gives his cases at the end of his propositions. The chief merit of the work is the singular lucidity with which the law is expounded. We give the work all the praise which it can claim when we say that the arrangement is good, the style clear, and the work exhaustive. There is a useful appendix of precedents and statutes, and a very good index."—*Law Times*.

"This is likely to prove a useful book in practice. All the ordinary law on the subject is given shortly and in a convenient and accessible form, and the index is a good one. The book is of a portable size and moderate price, and contains a fairly complete appendix of pre-

cedents. It is likely enough that it will meet a demand both in the profession and amongst lay arbitrators."—*Solicitors' Journal*.

"It is a concise statement of the law on the questions which are likely to arise in the course of a reference or in subsequent proceedings which may be taken in regard to it. The precedents of awards are clearly and concisely drawn. The arrangement of chapters is conveniently managed. The law is clearly stated, and, so far as we can judge, all the important cases bearing directly on the subject are given, while the index appears reasonably copious. These facts, combined with the smallness of the volume, ought to make the book a success."—*Law Journal*.

## Powell's Law of Inland Carriers.—Second Edition.

8vo., 14s. cloth.

THE LAW OF INLAND CARRIERS, especially as regulated by the Railway and Canal Traffic Act, 1854. By EDMUND POWELL, Esq., of Lincoln College, Oxon, M.A., and of the Western Circuit, Barrister at Law, Author of "Principles and Practice of the Law of Evidence." Second Edition, almost re-written.

"Mr Powell's writing is singularly precise and condensed, without being at all dry, as those who have read his admirable Book of Evidence will attest. It will be seen, from our outline of the contents, how exhaustively the subject has been treated, and that it is entitled to be, that which

it aspires to become, the text book on the Law of Carriers."—*Law Times*.

"The two chapters on the Railway and Canal Traffic Act, 1856, are quite new, and the recent cases under the provisions of that statute are analyzed in lucid language."—*Law Magazine*.

## Davis's Criminal Law Consolidation Acts.

12mo., 10s. cloth.

THE NEW CRIMINAL LAW CONSOLIDATION ACTS, 1861; with an Introduction and practical Notes, illustrated by a copious reference to Cases decided by the Court of Criminal Appeal. Together with alphabetical Tables of Offences, as well those punishable upon Summary Conviction as upon Indictment, and including the Offences under the New Bankruptcy Act, so arranged as to present at one view the particular Offence, the Old or New Statute upon which it is founded, and the Limits of Punishment; and a full Index. By JAMES EDWD. DAVIS, Esq., Barrister at Law.

## Lovesy's Law of Arbitration (Masters and Workmen).

12mo., 4s. cloth.

(Dedicated, by permission, to Lord St. Leonards.)

THE LAW of ARBITRATION between MASTERS and WORKMEN, as founded upon the Councils of Conciliation Act of 1867 (30 & 31 Vict. c. 105), the Masters and Workmen Act (5 Geo. 4, c. 96), and other Acts, with an Introduction and Notes. By C. W. LOVESY, Esq., of the Middle Temple, Barrister at Law, now one of Her Majesty's Judges, British Guiana.

## Dowell's Income Tax Laws.

8vo., 12s. 6d. cloth.

THE INCOME TAX LAWS at present in force in the United Kingdom, with Practical Notes, Appendices and a copious Index. By STEPHEN DOWELL, M.A., of Lincoln's Inn, Assistant Solicitor of Inland Revenue.

"Only men thoroughly conversant with the subject could have prepared it, and despite Mr. Dowell's knowledge it must have been a heavy labour. To commissioners and all concerned in the working of the Income Tax Mr. Dowell's book will be of great value."—*Law Journal*.

"We cannot doubt that the work will prove of much service to persons engaged in the administration of the Income Tax laws, and to the practitioner on the points which frequently arise in reference to those laws."—*Solicitors' Journal*.

"A collection of the Income Tax Acts made easy of reference by a copious index. The acts are connected together by cross-references, and for practical purposes the compilation must prove very useful."—*Law Times*.

"We can honestly commend Mr. Dowell's

work to our readers as being well done in every respect. They will find it a neatly written and complete history and explanation of the Stamp duties; and they will also find the Act of 1870 set out completely and clearly set before them in a good bold type, easy of reference and supported in its utility by a good index."—*Law Magazine*.

"Mr. Dowell has collected and accompanied with notes of reference and decided cases all the Statutes directly or indirectly bearing upon this subject. A full and well-constructed index completes the volume. Mr. Dowell's official position eminently fits him for the work he has undertaken, and his history of the Stamp Laws shows how carefully and conscientiously he performs what he undertakes."—*Justice of the Peace*.

## Dowell's Stamp Duties and Stamp Laws.

8vo., 12s. 6d. cloth.

A HISTORY and EXPLANATION of the STAMP DUTIES, from their commencement to the present time, the past and the present State of the Stamp Laws, the System and the Administration of the Tax, Observations on the Stamp Duties in Foreign Countries; *the Stamp Laws at present in force in the United Kingdom*; with Notes, Appendices and a copious Index. By STEPHEN DOWELL, M.A., of Lincoln's Inn, Assistant Solicitor of Inland Revenue.

"This is a work of some power. The author is evidently master of his subject. The style of the composition is singularly felicitous and makes the subject—a rather thorny one—clear and intelligible."—*Law Times*.

"There is justification for Mr. Dowell's appearance before the public, for he gives a good deal of useful information. Statesmen who contemplate future legislation, judges whose duty it is to administer the law, and officials who have

to carry out practical details will pay a well merited tribute to the industry which places before them the law as it stands with a sketch of the steps which have led up to it."—*Athenæum*.

"This book belongs to a class which we are glad to think is becoming increasingly popular. It is written by a man who is practically conversant with the subject of which he treats."—*Spectator*.

## Wigram on Extrinsic Evidence as to Wills.

Fourth Edition. 8vo., 11s. cloth.

AN EXAMINATION OF THE RULES OF LAW respecting the Admission of EXTRINSIC EVIDENCE in Aid of the INTERPRETATION OF WILLS. By the Right Hon. Sir JAMES WIGRAM, Knt. The Fourth Edition, prepared for the press with the sanction of the learned Author, by W. KNOX WIGRAM, M.A., of Lincoln's Inn, Esq., Barrister-at-Law.

"In the celebrated treatise of Sir James Wigram, the rules of law are stated, discussed and explained in a manner which has excited the

admiration of every judge who has had to consult it."—*Lord Kingsdown, in a Privy Council Judgment, July 8th, 1858.*



## Cutler and Griffin's Indian Criminal Law.

Svo., 6s. cloth.

AN ANALYSIS of the INDIAN PENAL CODE (including the Indian Penal Code Amendment Act, 1870), with Notes. By JOHN CUTLER, B.A., of Lincoln's Inn, Barrister at Law, Professor of English Law and Jurisprudence, and Professor of Indian Jurisprudence at King's College, London, and EDMUND FULLER GRIFFIN, B.A., of Lincoln's Inn, Barrister at Law.

"It may be added that the code is just at present out of print, so that the production of an analysis at the present moment is especially opportune. Messrs. Cutler and Griffin have produced a useful little book, and produced it at a time when it will be especially useful."—*Solicitors' Journal*.

"This analysis of the Indian Penal Code seems to have conferred a great boon on the Indian practitioner, and will doubtless be of

use to professional men in England. It has a good index."—*Law Magazine*.

"This is a work intended for students and for practitioners in India. Knowing how well the same authors edited the Indian portion of Powell on Evidence, we should be content to take it on the faith of their reputation only. The mode of analysis is very clear and brings well forward the prominent features of the code."—*Law Times*.

## Field's Table of, and Index to, Indian Statute Law.

Demy 4to., 42s. cloth.

A CHRONOLOGICAL TABLE of and INDEX to the INDIAN STATUTE-BOOK from the Year 1834, with a General Introduction to the Statute Law of India; with a SUPPLEMENT bringing the work down to August, 1872. By C. D. FIELD, M.A., LL.D., of the Inner Temple, Barrister at Law, and of H.M.'s Bengal Civil Service.

"Mr. Field has produced a work which will be extremely useful, not only to the profession

in India, but to those practising in the Privy Council at home."—*Solicitors' Journal*.

## Field's Law of Evidence in British India.

Svo., 28s. cloth.

THE LAW OF EVIDENCE AS ADMINISTERED IN BRITISH INDIA. By C. D. FIELD, LL.D., of the Inner Temple, Barrister at Law, and of H. M.'s Bengal Civil Service. Second Edition, containing the New Code of Evidence passed by the Legislative Council of India.

"It is worthy of the law of which it treats, and it is made additionally and exceptionally valuable by an introduction, which is an original essay on evidence in general and Indian evidence in particular. We do not think that

any better recommendation could be given to persons contemplating the practice of the law in India than to procure Mr. Field's work and master it."—*Law Times*.

## Clifford and Stephens's Practice of Referees Court, 1873.

Vols. I. and II., royal 8vo., 3l. 10s. cloth.

THE PRACTICE of the COURT of REFEREES on PRIVATE BILLS in PARLIAMENT, with Reports of Cases as to the locus standi of Petitioners during the Sessions 1867-68-69-70-71 and 72. By FREDERICK CLIFFORD and PEMBROKE S. STEPHENS, Barristers-at-Law.

"To counsel or agents engaged in parliamentary practice the work will prove extremely serviceable."—*Solicitors' Journal*.

"The reports, forming the most important part of the volume, are given with fulness and accuracy."—*Law Journal*.

VOL. II. PART II., containing the Cases decided during the Sessions 1871 and 1872, may be had separately, 30s. sewed.



# THE LAW EXAMINATION JOURNAL.

Edited by HERBERT NEWMAN MOZLEY, M.A.,  
Fellow of King's College, Cambridge; and of Lincoln's Inn, Esq., Barrister-at-Law.

*Published in Hilary, Easter, Trinity and Michaelmas Sittings in each year. Price 1s., by post 1s. 1d.  
annual subscription, payable in advance, 4s., by post, 4s. 4d. All the back Numbers may be had.*

No. 26. Hilary, 1876.—I. The New Rules relating to Examinations. II. The Statutes of 1875 (Second Notice). III. Digest of Cases. IV. Intermediate Examination, Michaelmas Sittings, 1875: Questions and Answers. V. Final Examination, Hilary Sittings, 1876: Questions and Answers. VI. Reviews. VII. Correspondence and Notices.

No. 25. Michaelmas, 1875.—I. Statute of Fraudulent Conveyances, 13 Eliz. c. 5. II. Statutes of 1875 (First Notice). III. Digest of Cases. IV. Intermediate Examination, Trinity Term, 1875: Questions and Answers. V. Final Examination, Michaelmas Term, 1875: Questions and Answers. VI. Reviews of Books. VII. Correspondence and Notices.

No. 24. Trinity, 1875.—I. The Statute of Uses, continued. II. Digest of Cases. III. Intermediate Examination, Easter Term, 1875: Questions and Answers. IV. Final Examination, Trinity Term, 1875: Questions and Answers. V. A New Law Dictionary. VI. Correspondence and Notices.

No. 23. Easter, 1875.—I. The Statute of Uses. II. The Statutes of 1874 (Third Notice). III. Digest of Cases. IV. Intermediate Examination, Hilary Term, 1875: Questions and Answers. V. Final Examination, Easter Term, 1875: Questions and Answers. VI. Correspondence and Notices.

No. 22. Hilary, 1875.—I. The Statute of Frauds in relation to Contracts of Sale: *Sale v. Lambert and Potter v. Duffield*. II. The Statutes of 1874 (Second Notice). III. Digest of Cases. IV. Intermediate Examination, Michaelmas Term, 1874: Questions and Answers. V. Final Examination, Hilary Term, 1875: Questions and Answers. VI. Notice of Intermediate Examinations for 1875. VII. Correspondence and Notices.

No. 21. Michaelmas, 1874.—I. The Statutes of 1874 (First Notice). II. Digest of Cases. III. Intermediate Examination Questions and Answers (T. T. 1874). IV. Final Examination Questions and Answers (M. T. 1874). V. Reviews of Books. VI. Correspondence and Notices.

No. 20. Trinity, 1874.—I. Legislative Prospects of the Session. II. Digest of Cases. III. Intermediate Examination, Easter Term, 1874: Questions and Answers. IV. Final Examination, Trinity Term, 1874: Questions and Answers. V. Reviews. VI. Correspondence and Notices.

No. 19. Easter, 1874.—I. Leading Cases (continued). II. Digest of Cases. III. Intermediate Examination, H. T. 1874: Questions and Answers. IV. Final Examination, E. T. 1874: Questions and Answers. V. Review. 7th Edit. of Stephen's Blackstone's Commentaries. VI. Correspondence.

No. 18. Hilary, 1874.—I. Statutes of 1873 (Second Notice, including the Supreme Court of Judicature Act and subsequent Statutes). II. Digest of Cases. III. Intermediate Examination, Michaelmas Term, 1873: Questions and Answers. IV. Final Examination, Hilary Term, 1874: Questions and Answers. V. Correspondence and Notices.

No. 17. Michaelmas, 1873.—I. Leading Cases (Note by the Editor). II. Statutes of 1873 (First Notice). III. Digest of Cases. IV. Intermediate Examination, T. T. 1873: Questions and Answers. V. Final Examination, M. T. 1873: Questions and Answers. VI. Notice of Intermediate Examination for 1874. VII. Reviews of Books. VIII. Law Student's Societies. IX. Correspondence.

No. 16. Trinity, 1873.—I. The Study of the Law, concluded. II. Leading Cases—*Spencer's Case*, continued. III. Digest of Cases. IV. Intermediate Examination, Easter, 1873: Questions and Answers. V. Final Examination, Trinity, 1873: Questions and Answers. VI. A Review—*Kelly's Draftsman*. VII. Correspondence and Notices.

No. 15. Easter, 1873.—I. The Study of the Law, continued. II. Analysis of Leading Cases. III. Digest of Cases. IV. Intermediate Examination, H. T. 1873: Questions and Answers. V. Final Examination, E. T. 1873: Questions and Answers. VI. Correspondence and Notices.

No. 14. Hilary, 1873.—I. The Study of the Law, continued. II. Digest of Cases. III. Intermediate Examination, M. T. 1872: Questions and Answers. IV. Final Examination, H. T. 1873: Questions and Answers. V. Reviews. VI. Answers to Correspondents and Notices.

No. 13. Michaelmas, 1872.—I. Public Prosecutors, concluded. II. The Statutes of 1872. III. Digest of Cases. IV. Intermediate Examination, Trinity Term, 1872: Questions and Answers. V. Final Examination, Michaelmas Term, 1872: Questions and Answers. VI. Reviews. VII. Answers to Correspondents and Notices.

No. 12. Trinity, 1872.—I. Public Prosecutors, continued. II. Study of the Law, continued. III. Digest of Cases. IV. Intermediate Examination, Easter Term, 1872: Questions and Answers. V. Final Examination, Trinity Term, 1872: Questions and Answers. VI. Law Students' Congress, Birmingham: Law Examinations. VII. Review. VIII. Answers to Correspondents.

No. 11. Easter, 1872.—I. The Study of the Law. II. Legislative Prospects of the Session. Married Women's Property Act Amendment Bill. Imperial Court of Appeal. III. Digest of Cases. IV. Intermediate Examination Questions and Answers. Hilary Term, 1872. V. Final Examination Questions and Answers. Easter Term, 1872. VI. Answers to Correspondents.

No. 10. Hilary, 1872.—I. Notice of the late Editor. II. The Study of the Law. III. Digest of Cases. IV. Intermediate Examination Questions and Answers. V. Final Examination Questions and Answers. VI. Answers to Correspondents.

No. 9. Michaelmas, 1871.—I. On Examinations. II. The Subject of Public Prosecutors (continued). III. Digest of Cases. IV. Intermediate Examination Questions on Chitty, Williams and Smith, Trinity, 1871, with Answers. V. Final Examination Questions and Answers, Michaelmas Term, 1871. VI. Reviews of Books. VII. Answers to Correspondents.

*Copies of Vol. I. of the LAW EXAMINATION JOURNAL, containing Nos. 1 to 14, with full Indexes and Tables of Cases cited, may now be had, price 16s., bound in cloth.*



# BAR EXAMINATION JOURNAL.

Edited by A. D. TYSSSEN, B.C.L., M.A. and SIR R. K. WILSON, BART., M.A.,  
Barristers at Law.

**Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, from TRINITY TERM, 1871, to  
MICHAELMAS SITTINGS, 1875.**

*Published in Numbers, Svo., at 3s. each, by post 3s. 1d., after each Bar  
Examination.*

Subjects of Bar Examination. Examination Papers, with *the Answers*.

ENGLISH LAW :—Constitutional Law and Legal History ; Equity ; Common Law ; Real Property ; Jurisprudence, &c. ; General Paper.

INDIAN LAW :—Hindu Law ; Mahomedan Law ; Penal Code ; Criminal Procedure Code ; Civil Procedure Code ; Succession Act ; General Paper.

Copies of Vol. I. of the Bar Examination Journal, containing Nos. 1 to 6 (1871 to 1873), with Index, &c. may be had, price 18s. cloth.

Copies of Vol. II. of the same, containing Nos. 7 to 11 (1873 to 1875), may be had, price 16s. cloth.

**Pearce's Guide to the Inns of Court and Chancery ; with  
Notices of their Ancient Discipline, Customs and Entertainments ; an  
Account of the Eminent Men of Lincoln's Inn, the Inner Temple, the  
Middle Temple, and Gray's Inn, &c. ; together with the Regulations as to  
the Admission of Students, Keeping Terms, Call to the Bar, &c. By  
ROBERT R. PEARCE, Esq., Barrister at Law. Svo. 8s. cloth.**

## The Preliminary Examination Journal AND STUDENT'S LITERARY MAGAZINE.

EDITED BY JAMES ERLE BENHAM,

Formerly of King's College, London ; Author of "The Student's Examination Guide," &c.

*Now complete in Eighteen Numbers, containing all the Questions and Answers  
from 1871 to 1875, and to be had in One Vol. Svo., price 18s. cloth.*

**Nos. I. to XVIII. of the Preliminary Examination Journal may  
also still be had at 1s. each, by post 1s. 1d.**

They contain the following Articles by the Editor, on—

"The Imperfections of the Orthography of the English Language." "Lectures on the Origin of the English Language." "What Endowments are essential to those aspiring to become Barristers and Solicitors?" "The Study of the English, French and Latin Languages." "How to become an Orator ; with Selections from the Speeches of Lord Brougham, Pitt, Curran, Daniel O'Connell, the late Earl of Derby, Mr. Gladstone, Mr. Disraeli, and others." "How many Hours a Day do you recommend me to study?" "The Improvement of the Memory." "What leads to Success in Life?" "Brains ; Quantity or Quality." "The Power of Imagination." "The Amalgamation of the Two Branches of the Profession." "The Advantage of Education." "Common Sense." "The New Jury Bill." "Ladies as Lawyers!" "Psychological Enquiries." "Eminent Lawyers." "Rhetoric." "Quotations by Authors and Advocates." "Men of Genius deficient in Conversation." "The Choice of a Profession, and its Influence on the Mind." "The Incorporation of the Inns of Court and the proposed Law University." "Orthography of Proper Names." "Absence of Mind." "A Prediction for One Author." "Accommodation for Law Students in Courts of Justice." "The School Board." "Inequalities of Genius." "Mysterious Personages." "The Lord Chief Justice of England on the Choice of a Profession." "The Solicitor General on Perseverance." "(a) Modern Classics ; (b) the Value of Genuine Talent ; (c) the Quality of Wit." "Synopsis of leading Authors, Statesmen, Poets, and Philosophers, and Ancient Classical Writers." "Memoirs of Charles Dickens, the late Lord Lytton, and John Stuart Mill."

Besides other Articles, Reviews, &c. &c.

**Drainage of Land: How to procure Outfalls by New Drains, or the Improvement of Existing Drains, in the Lands of an adjoining Owner, under the Powers contained in Part III. of the Act 24 & 25 Vict. c. 133; with an Explanation of the Provisions, and Suggestions for the Guidance of Land Owners, Occupiers, Land Agents and Surveyors.** By J. WILLIAM WILSON, Solicitor. 8vo. 1s. sewed.

**Supreme Appellate Jurisdiction.** A Speech delivered in the House of Lords on the 11th June, 1874. By the Right Hon. Lord O'HAGAN. 8vo. 1s. sewed.

**The Law and Facts of the Alabama Case, with Reference to the Geneva Arbitration.** By JAMES O'DOWD, Esq., Barrister at Law. 8vo. 2s. sewed.

**Foreshores.** Report of case *The Queen at the prosecution of Williams v. Nicholson*, for removing Shingle from the Foreshore at Withernsea. Heard at the Police Court, Hull, 31st May, 1870. 8vo. 1s. sewed.

**A Letter to the Right Hon. the Lord High Chancellor concerning Digests and Codes.** By WILLIAM RICHARD FISHER, of Lincoln's Inn, Esq., Barrister at Law. Royal 8vo. 1s. sewed.

**Indian Civil Service Examinations.** On reporting Cases for the Periodical Examinations by Selected Candidates for the Civil Service of India: Being a Lecture delivered on Wednesday, June 12, 1867, at King's College, London. By JOHN CUTLER, B.A., of Lincoln's Inn, Barrister at Law, Professor of English Law and Jurisprudence and Professor of Indian Jurisprudence at King's College, London. 8vo., 1s. sewed.

**Hamel's International Law, in connexion with Municipal Statutes relating to the Commerce, Rights and Liabilities of the Subjects of Neutral States pending Foreign War; considered with reference to the Case of the *Alexandra*, seized under the provisions of the Foreign Enlistment Act.** By FELIX HARGRAVE HAMEL, Barrister at Law. Post 8vo. 3s. boards.

**Francillon's Lectures, Elementary and Familiar, on English Law. FIRST and SECOND SERIES.** By JAMES FRANCILLON, Esq., County Court Judge. 2 vols. 8vo. 8s. each cloth.

**The Laws of Barbados.** (By Authority.) Royal 8vo. 21s. cloth.

**Le Marchant's Report of Proceedings of the House of Lords on the Claims to the Barony of Gardner, with an Appendix of Cases illustrative of the Law of Legitimacy.** By Sir DENIS LE MARCHANT, of Lincoln's Inn, Barrister at Law. 8vo. 18s. boards.

**Norman's Treatise on the Law and Practice relating to Letters Patent for Inventions.** By J. P. NORMAN, M.A., Barrister at Law. Post 8vo., 7s. 6d. cloth.

**Gray's Treatise on the Law of Costs in Actions and other Proceedings in the Courts of Common Law at Westminster.** By JOHN GRAY, Esq., of the Middle Temple, Barrister at Law. 8vo., 21s. cloth.

**Elements of the Logical and Experimental Sciences considered in their relation to the Practice of the Law.** 8vo. 14s. boards.

**Remarks on Law Reform.** By G. W. M. Dale, of Lincoln's Inn, Esq. 8vo. 1s. 6d. sewed.

**The Inns of Court and Legal Education pending Legislation Reviewed, with Suggestions for the proper Foundation of a Law University. A Paper read at the Provincial Meeting of the Incorporated Law Society of the United Kingdom, held at Liverpool, 14th October, 1875.** By C. T. SAUNDERS, a Member of the Council. 8vo. 1s. sewed.



**Law Students. Full Report of the Proceedings of the First General Congress of Law Students' Societies, held at Birmingham 21st and 22nd May, 1872.** 8vo. 2s. sewed.

**Legal Education.** By W. A. JEVONS. A Paper read at the Social Science Congress at Leeds. 1871. 8vo. 6d. sewed.

**A Memoir of Lord Lyndhurst.** By William Sidney Gibson, Esq., M.A., F.S.A., Barrister at Law, of Lincoln's Inn. Second edition, enlarged. 8vo. 2s. 6d. cloth.

**A Memoir of Mr. Justice Talfourd.** By a Member of the Oxford Circuit. Reprinted from the Law Magazine. 8vo. 1s. sewed.

**Speech of Sir R. Palmer, Q.C., M.P., at the Annual Meeting of the Legal Education Association in the Middle Temple Hall, 1871; with a Report of the Proceedings.** 8vo. 1s. sewed.

**The Ancient Land Settlement of England.** A Lecture delivered at University College, London, October 17th, 1871. By J. W. WILLIS BUND, M.A., Professor of Constitutional Law and History. 8vo. 1s. sewed.

**Baker's Compendium of the Statutes, Cases and Decisions affecting the Office of Coroner.** By WILLIAM BAKER, Coroner of Middlesex. 12mo. 7s. cloth.

**Greening's Forms of Declarations, Pleadings and other Proceedings in the Superior Courts of Common Law, with the Common Law Procedure Act, and other Statutes; Table of Officers' Fees; and the New Rules of Practice and Pleading, with Notes.** By HENRY GREENING, Esq., Special Pleader. Second Edition. 12mo. 10s. 6d. boards.

**The Laws, Customs and Privileges, and their Administration in the Island of Jersey, with Notices of Guernsey.** By ABRAHAM J. LE CRAS. 12mo. 6s. cloth.

**Bowditch's Treatise on the History, Revenue Laws, and Government of the Isles of Jersey and Guernsey, to which is added the recent Acts as to Smuggling, Customs and Trade of the Isle of Man and the Channel Islands, Forms, Costs, &c.** By J. BOWDITCH, Solicitor. 8vo. 3s. 6d. sewed.

**Pulling's Practical Compendium of the Law and Usage of Mercantile Accounts:** describing the various Rules of Law affecting them, at Common Law, in Equity, Bankruptcy and Insolvency, or by Arbitration. Containing the Law of Joint Stock Companies' Accounts, and the Legal Regulations for their Adjustment under the Winding-up Acts of 1848 and 1849. By ALEXANDER PULLING, Esq. of the Inner Temple, Barrister at Law. 12mo. 9s. boards.

**Leigh's Abridgment of the Law of Nisi Prius.** By P. Brady LEIGH, of the Inner Temple, Barrister at Law. 2 vols. 8vo. £2 : 8s. boards.

**Gurney's System of Short Hand.** By Thomas Gurney. First published in 1740, and subsequently improved. 17th Edition. 12mo. 3s. 6d. cloth.  
"Gurney's is, we believe, admitted to be the best of the many systems, and a seventeenth edition appears to attest that fact."—*Law Times*.

**Linklater's Digest of, and Index to, the New Bankruptcy Act, 1869, and the accompanying Acts.** By JOHN LINKLATER, Solicitor. Second Edition. Imperial 8vo., 3s. 6d. sewed.

**Moseley's Law of Contraband of War;** comprising all the American and English Authorities on the Subject. By JOSEPH MOSELEY, Esq., B.C.L., Barrister at Law. Post 8vo. 5s. cloth.

**Dr. Deane's Law of Blockade, as contained in the Judgments of Dr. Lushington and the Cases on Blockade decided during 1854.** By J. P. DEANE, D.C.L., Advocate in Doctors' Commons. 8vo. 10s. cloth.

**Chart of Inheritance according to the Bengal School of Hindu Law.** By C. D. FIELD, LL.D., Barrister at Law, Author of "The Law of Evidence in British India." On stiff card, 5s.

**The Acts for the Commutation of Tithes in England and Wales,** with Notes, Observations, and an Epitome of the Law of Tithes. Second Edition. By J. T. SCHOMBERG, Esq., Q.C. 12mo. 7s. cloth.

**A Practical Treatise on Life Assurance; in which the Statutes, &c., affecting unincorporated Joint Stock Companies are briefly considered and explained.** SECOND EDITION. By FREDERICK BLAYNEY, Esq., Author of "A Treatise on Life Annuities." 12mo. 7s. boards.

**Sewell's Treatise on the Law of Sheriff, with Practical Forms and Precedents.** By RICHARD CLARKE SEWELL, Esq., D.C.L., Barrister at Law. 8vo. 21s. boards.

**The Law relating to Transactions on the Stock Exchange.** By HENRY KEYSER, Esq., Barrister at Law. 12mo., 8s. cloth.

**Sewell's Municipal Corporation Acts, 5 & 6 Will. 4, c. 76, and 6 & 7 Will. 4, cc. 103, 104, 105, with Notes, and Index.** By R. C. SEWELL, Esq., Barrister at Law. 12mo. 9s. boards.

**A Legigraphical Chart of Landed Property in England from the time of the Saxons to the present Æra.** By CHARLES FEARNE, Esq., Barrister at Law. On a large sheet, 6s. coloured.

**Dwyer's Compendium of the Principal Laws and Regulations relating to the Militia of Great Britain and Ireland** 12mo. 5s. 6d. cloth.

**The Common Law of Kent; or the Customs of Gavelkind.** With an Appendix concerning Borough English. By T. ROBINSON, Esq. THIRD EDITION, with Notes and References to modern Authorities, by JOHN WILSON, Esq. Barrister at Law. 8vo. 18s. boards.

**The Marriage and Registration Acts, 6 & 7 Will. 4, caps. 85, 86; with Instructions, Forms, and Practical Directions. The Acts of 1837, viz. 7 Will. 4, c. 1, and 1 Vict. c. 22, with Notes and Index.** By J. S. BURN, Esq., *Secretary to the Commission.* 12mo. 6s. 6d. boards.

**A Treatise on the Law of Gaming, Horse-Racing, and Wagers.** By FREDERIC EDWARDS, Esq., Barrister at Law. 12mo. 5s. cloth.

**A Digest of Principles of English Law; arranged in the order of the Code Napoleon, with an Historical Introduction.** By GEORGE BLAXLAND, Esq. Royal 8vo. £1 : 4s. boards.

**A Treatise on the Law of Commerce and Manufactures, and the Contracts relating thereto; with an Appendix of Treaties, Statutes, and Precedents.** By JOSEPH CHITTY, Esq. Barrister at Law. 4 vols. royal 8vo. £6 : 6s. boards.

**Anstey's Pleader's Guide; a Didactic Poem, in Two Parts,** The Eighth Edition. 12mo. 7s. boards.

**Hardy's Catalogue of Lords Chancellors, Keepers of the Great Seal, and Principal Officers of the High Court of Chancery.** By THOMAS DUFFUS HARDY, Principal Keeper of Records. Royal 8vo. 20s. cloth. (Only 250 copies printed.)

**Pothier's Treatise on the Contract of Partnership: with the Civil Code and Code of Commerce relating to this Subject, in the same Order.** Translated from the French. By O. D. TUDOR, Esq., Barrister. 8vo., 5s. cloth.

**Browne's Practical Treatise on Actions at Law, embracing the subjects of Notice of Action; Limitation of Actions; necessary Parties to and proper Forms of Actions, the Consequence of Mistake therein; and the Law of Costs with reference to Damages.** By R. J. BROWNE, Esq., of Lincoln's Inn, Special Pleader. 8vo., 16s. boards.



## Ecclesiastical Law.

**The Case, of the Rev. G. C. Gorham against the Bishop of Exeter,** as heard and determined by the Judicial Committee of the Privy Council on appeal from the Arches Court of Canterbury. By EDWARD F. MOORE, Esq., M.A., Barrister at Law; Author of Moore's Privy Council Reports. Royal 8vo. 8s. cloth.

**Archdeacon Hale's Essay on the Union between Church and State,** and the Establishment by Law of the Protestant Reformed Religion in England, Ireland, and Scotland. By W. H. HALE, M.A., Archdeacon of London. 8vo. 1s. sewed.

**The Judgment of the Privy Council on Appeal in the Case of Hebbert v. Purchas.** Edited by EDWARD BULLOCK, of the Inner Temple, Barrister at Law, Reporter in Privy Council for the Law Journal Reports. Royal 8vo., 2s. 6d. sewed.

**Burder v. Heath.** Judgment delivered on November 2, 1861, by the Right Honorable STEPHEN LUSHINGTON, D.C.L., Dean of the Arches. Folio, 1s. sewed.

**The Case of Long v. Bishop of Cape Town,** embracing the opinions of the Judges of Colonial Court hitherto unpublished, together with the decision of the Privy Council, and Preliminary Observations by the Editor. Royal 8vo., 6s. sewed.

**The Judgment of the Dean of the Arches, also the Judgment of the PRIVY COUNCIL,** in Liddell (clerk), and Horne and others against Westerton, and Liddell (clerk) and Park and Evans against Beal. Edited by A. F. BAYFORD, LL.D.: and with an elaborate analytical Index to the whole of the Judgments in these Cases. Royal 8vo., 3s. 6d. sewed.

**The Law of the Building of Churches, Parsonages and Schools,** and of the Division of Parishes and Places—continued to 1874. By CHARLES FRANCIS TROWER, M.A., Barrister at Law. Post 8vo. 9s. cloth.

**The History and Law of Church Seats or Pews.** By ALFRED HEALES, F.S.A., Proctor in Doctors' Commons. 2 vols. 8vo. 16s. cloth.

**Field's Law relating to Protestant Curates and the Residence of Incumbents or their Benefices in England and Ireland.** By C. D. FIELD, M.A., LL.D., Author of "The Law of Evidence in India," &c. Post 8vo. 6s. cl.

**Hamel's Law of Ritualism in the United Church of England and Ireland.** With Practical Suggestions for Amendment of the Law, and a Form of Bill for that purpose. By F. HARGAVE HAMEL, Esq., of the Inner Temple, Barrister at Law. Post 8vo. 1s. sewed.

**The Judgment delivered by the Right Hon. Sir Robert Phillimore, D.C.L.,** Official Principal of the Court of Arches, in the Cases of Martin v. Mackonochie and Flamank v. Simpson. Edited by WALTER G. F. PHILLIMORE, B.A., of the Middle Temple, Fellow of All Souls College, and Vinerian Scholar, Oxford. Royal 8vo. 2s. 6d. sewed.

**Judgment delivered by the Right Hon. Lord Cairns on behalf of the Judicial Committee of the Privy Council in the case of Martin v. Mackonochie.** Edited by W. ERNST BROWNING, Barrister at Law. Royal 8vo. 1s. 6d. sewed.

**The Privilege of Religious Confessions in English Courts of Justice** considered in a Letter to a Friend. By EDWARD BADELEY, Esq., M.A., Barrister at Law. 8vo. 2s. sewed.

**The Practice of the Ecclesiastical Courts, with Forms and Tables of Costs.** By H. C. COOTE, F.S.A., Proctor in Doctors' Commons, &c. 8vo. 28s. boards.

**A Practical Treatise on the Law of Advowsons.** By J. MIREHOUSE, Esq., Barrister at Law. 8vo. 14s. boards.

**The Lord's Table: its true Rubrical Position.** The Purchas Judgment, not reliable. The Power of the Laity and Churchwardens to prevent Romanizing. Suggestions to the Laity and Parishes for the due ordering of the Table at Communion Time. The Rubrical Position of the Celebrant. By H. F. NAPPER, Solicitor. 8vo. 1s. sewed.



## New Works and New Editions in Preparation.

Dr. Tristram's Contentious Practice of the High Court of Justice in granting Probates and Administrations. Seventh Edition. In 8vo.

The Third Edition of Robson's Treatise on the Law and Practice in Bankruptcy. In 1 vol. 8vo.

A Concise Law Dictionary. By H. N. MOZLEY, of Lincoln's Inn, and G. C. WHITELEY, of the Middle Temple, Esquires, Barristers at Law. In 1 vol. 8vo.

The Fourth Edition of Starkie's Law of Slander and Libel. By H. C. FOLKARD, Esq., Barrister at Law. In 1 vol. 8vo.

The Third Edition of the Law of Mortgage, and other Securities upon Property. By WILLIAM RICHARD FISHER, of Lincoln's Inn, Esq., Barrister at Law. In 2 vols. royal 8vo.

A Collection of Mortgage Precedents and Forms of Decrees. By W. R. FISHER, Esq., of Lincoln's Inn, Barrister at Law. In 1 vol. royal 8vo.

Oke's Game Laws. Third edition. By J. W. WILLIS BUND, Esq., Barrister at Law. In post 8vo.

Oke's Fishery Laws. Second edition. By J. W. WILLIS BUND, Esq., Barrister at Law. In post 8vo.

Glen's Law of Highways. Third edition. In 8vo.

Glen's Public Health and Local Government. Eighth edition. In 8vo.

Clifford and Rickards' Practice of the Court of Referees on Private Bills in Parliament. Vol. III., Part I. In royal 8vo.

Imprinted at London,  
*number Seuen in Flete strete within Temple barre,*  
whylom the signe of the Hande and starre,  
and the Hovse where liued Richard Tottel,  
printer by Special patentes of the bookes of the Common lawe  
in the seuerall Reigns of  
*King Edw. VI. and of the quenes Marye and Elizabeth.*



105-6 15-3

X 164 5-191







